

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 *****

5 IN RE: NATIONAL MDL No. 2804
6 PRESCRIPTION OPIATE
LITIGATION Case No.
1:17-MD-2804

7 *****

8 THIS DOCUMENT RELATES TO Hon. Dan A. Polster
9 ALL CASES

10 *****

11 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
12 CONFIDENTIALITY REVIEW
13 VIDEOTAPED DEPOSITION OF CRAIG SCHIAVO

14
15 Thursday, January 17th, 2019
16 8:06 a.m.

17
18 Held At:

19 Omni Hotel
20 One West Exchange Street
21 Providence, Rhode Island

22
23 REPORTED BY:

24 Maureen O'Connor Pollard, RMR, CLR, CSR

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1 P R O C E E D I N G S

2

3 THE VIDEOGRAPHER: We are now on the
4 record. My name is Robert Sweig, and I'm a
5 videographer for Golkow Litigation Services.

6 Today's date is January 17, 2019, and
7 the time is 8:06 a.m.

8 This video deposition is being held in
9 Providence, Rhode Island in the matter of In Re
10 National Prescription Opiate Litigation pending
11 before the United States District Court for the
12 Northern District of Ohio, Eastern Division.

13 The deponent is Craig Schiavo.

14 Counsel appearances will be as noted
15 on the stenographic record.

16 The court reporter is Maureen Pollard
17 who will now swear in our witness.

18

19 CRAIG SCHIAVO,
20 having been duly sworn, was examined and
21 testified as follows:

22 EXAMINATION

23 BY MR. ELSNER:

24 Q. Good morning.

1 A. Good morning.

2 Q. My name is Mike Elsner, and I'm from
3 the law firm of Motley Rice, and I represent the
4 plaintiffs in these actions.

5 Can you please tell us your name?

6 A. My name is Craig Schiavo.

7 Q. When were you born?

8 A. 

9 Q. So how old are you?

10 A. 36.

11 Q. 36.

12 And where do you live?

13 A. Medway, Massachusetts.

14 Q. And you graduated from Lasalle

15 University, is that right?

16 A. That's right.

17 Q. And that's in Philadelphia?

18 A. That's in Philadelphia.

19 Q. In 2004?

20 A. Yes.

21 Q. Okay. Did you graduate with a degree?

22 A. Yes.

23 Q. What is the degree?

24 A. My major was business management.

1 Q. Okay. Did you take any courses in
2 pharmaceuticals or pharmacy?

3 A. Not that I recall.

4 Q. Before joining Henry Schein, did you
5 have any coursework or take any studies in DA
6 regulations?

7 A. Not that I recall.

8 Q. Okay. When did you join Henry Schein?
9 Was that your first job out of college?

10 A. I joined Henry Schein in June of 2004,
11 and that was my first full-time job out of
12 college.

13 Q. Okay. And what were you hired to do?

14 A. When I started in 2004, I was doing
15 product recalls.

16 Q. And what did that involve?

17 A. We would receive recalls or
18 withdrawals from manufacturers or distributors,
19 and my responsibility was to coordinate the --
20 making sure that our distribution centers put a
21 block on the product, and then if required
22 whatever notifications needed to go to either
23 our customers, or just coordinate the recall.

24 Q. Okay. And Henry Schein is a wholesale

1 distributor of medical products and drugs, is
2 that right?

3 A. That's part of their services, yes.

4 Q. What else do they do?

5 A. They distribute a lot of things.

6 Q. Okay. But they do distribute
7 controlled substances, is that right?

8 A. At the time that I worked there, yes.

9 Q. Okay. And did that include Schedule
10 II narcotics as well as Schedule III narcotics?

11 MS. MILLER: Object to form.

12 A. Yes.

13 BY MR. ELSNER:

14 Q. And can you give us a description of
15 Henry Schein's customer base as it related to
16 the sale of controlled substances?

17 A. We distributed mainly to the
18 office-based practitioner from what I remember.

19 Q. Okay. So that would include medical
20 doctors in their offices, is that right?

21 A. Yes.

22 Q. And dentists?

23 A. I believe we distributed to dentists,
24 yes.

1 Q. And veterinary clinics?

2 A. For -- I don't think so the whole time
3 that I worked there, but at some point they did.

4 Q. Okay. Did it include retail
5 pharmacies?

6 A. For most of the time that I was there,
7 no. At the very end of my time with Henry
8 Schein I vaguely remember going or dealing with
9 a pharmacy, a few pharmacies.

10 Q. And would these be large retail
11 pharmacy chains like CVS or Walgreen's, or are
12 we talking about smaller pharmacies?

13 A. To the best of my recollection, I
14 think it was just smaller pharmacies.

15 Q. Okay. And how long did you perform
16 your job for Henry Schein in product recalls?
17 You started in June, 2004, and when did that
18 position end, and what was your next position
19 there?

20 A. I don't remember exactly how long I
21 was in the role. It might have been a couple
22 years, two, two and a half years. And then
23 after that my role was dealing with inspections
24 and controlled substances and suspicious order

1 monitoring.

2 Q. Did you begin that roughly in 2007?

3 Does that sound about right?

4 A. I don't recall.

5 Q. Okay. How was it that you
6 transitioned from product recalls into
7 regulatory specialist related to DEA compliance?

8 MS. MILLER: Object to form.

9 A. Can you just repeat the question?

10 BY MR. ELSNER:

11 Q. Yes. Well, let me ask it a different
12 way.

13 What was your title after you moved
14 from recall coordinator? What was your next
15 title at Henry Schein?

16 A. I don't remember the specific title.

17 Q. Okay. But what were you responsible
18 for in your new position?

19 A. I think I was still supporting
20 recalls. And then when I first started the role
21 I don't remember exactly what my
22 responsibilities were.

23 Q. Did it include any responsibilities
24 for DEA compliance with respect to controlled

1 substances?

2 A. When I first transitioned into the
3 role, I don't know what my responsibilities
4 were, but it was learning the new role, and part
5 of that was around controlled substances and
6 inspections in our distribution centers.

7 Q. And as you evolved into that role
8 after the training period, then what were your
9 general responsibilities in that position?

10 A. Continued to be government
11 inspections, training of some employees, and
12 then compliance with controlled substances and
13 suspicious order monitoring.

14 Q. How many -- did you have employees
15 that worked for you in that position?

16 A. I had no direct reports.

17 Q. Okay. How large was the team that
18 dealt with compliance related to controlled
19 substances at Henry Schein in that period?

20 A. I'm not sure -- I mean, a lot of
21 people had a part in the process. I don't know
22 how many.

23 Q. Were you involved in establishing
24 Henry Schein's suspicious order monitoring

1 program for controlled substances?

2 MR. MONTMINY: Objection. Form,
3 outside the scope.

4 A. I was part of a team that worked on
5 suspicious order monitoring.

6 BY MR. ELSNER:

7 Q. How many people were in that team?

8 A. Again, I don't recall how many. There
9 was a team of people. I can't remember
10 everyone.

11 Q. Less than ten? Less than five?
12 What's your best estimate?

13 A. Again, I don't recall. It wasn't just
14 compliance. There were other departments that
15 were participating. I can't even give a good
16 guess on how many people.

17 Q. When did Henry Schein develop its
18 suspicious order monitoring system initially?

19 MR. MONTMINY: Objection to form.

20 A. I'm not sure.

21 BY MR. ELSNER:

22 Q. Was it in place in 2007 when you
23 transitioned into that position, or was it
24 something that you developed in that position?

1 MR. MONTMINY: Objection. Form, asked
2 and answered.

3 A. I don't recall what the system was
4 prior to me going to that role.

5 BY MR. ELSNER:

6 Q. Did it exist?

7 A. I don't recall.

8 Q. At some point in time you became a
9 senior regulatory specialist at Henry Schein, is
10 that right?

11 A. I believe so.

12 Q. Okay. And was that in 2012?

13 A. I don't recall when that happened.

14 Q. Was it shortly before you left Henry
15 Schein?

16 A. I'm not sure what you mean by
17 "shortly," but I don't remember exactly when I
18 went into that role, or got that title.

19 Q. How long did you serve in that role?

20 A. Again, I don't remember when I -- I
21 think that was a promotion. I don't remember
22 when that happened.

23 Q. Did your responsibilities change in
24 any way?

1 A. I don't remember.

2 Q. Did you have direct reports?

3 A. I don't believe I ever had direct
4 reports at Henry Schein.

5 Q. I want to show you something on the
6 screen, I didn't print it for you, but it might
7 help your recollection with some of the dates,
8 if that's okay.

9 A. Sure.

10 MS. MILLER: Mike, do you have hard
11 copies?

12 MR. ELSNER: I'll have hard copies of
13 most everything else, but not this. This is his
14 LinkedIn page. I'm going to show it to him and
15 see if it helps him remember some of the dates.

16 MS. MILLER: Craig, are you able to --

17 MR. ELSNER: There's a screen, but
18 it's not there yet.

19 Can we just go off the record for a
20 quick minute while we get this? Sorry.

21 THE VIDEOGRAPHER: We're going off the
22 record at 8:17 a.m.

23 (Pause.)

24 THE VIDEOGRAPHER: We're back on the

1 record at 8:18 a.m.

2 (Whereupon, CVS-Schiavo-1 was marked
3 for identification.)

4 BY MR. ELSNER:

5 Q. Mr. Schiavo, we've placed before you
6 what we're going to mark as Exhibit 1. Is this
7 a copy of your LinkedIn page?

8 A. It looks to be my LinkedIn page.

9 Q. That's your picture?

10 A. That is my picture.

11 Q. Okay. Did you draft -- did you create
12 your own LinkedIn page?

13 A. Yes.

14 Q. Okay. Let's move down to the portion
15 that deals with your work experience at Henry
16 Schein. I think it starts on the bottom of the
17 first page there. It says that you worked there
18 for roughly eight years. Is that accurate?

19 A. That seems about right.

20 Q. Okay. When did you create your
21 LinkedIn page?

22 A. I don't remember when I created it.

23 Q. It says here that your work for Henry
24 Schein was in Greenville, South Carolina. Is

1 that where you were working when you worked for
2 them?

3 A. Part of the time that I worked for
4 them it was in Greenville.

5 Q. What period of time did you spend in
6 Greenville?

7 A. It was my last year with the company.

8 Q. Your last year.

9 Where were you before that?

10 A. I was in Melville, Long Island.

11 Q. In New York?

12 A. In New York.

13 Q. Okay. What year did you move to
14 Greenville?

15 A. I believe it was 2011.

16 Q. Okay. On the second page of your
17 LinkedIn page it lists -- the top of the second
18 page, it says "Senior Regulatory Specialist -
19 DEA Compliance," and it's listed there from June
20 of 2004 to August of 2012, if I can read that
21 correctly. Is that accurate?

22 A. That's what it says there. I started
23 in June of 2004. I wasn't handling anything
24 with DEA compliance that I recall in 2004.

1 Q. Okay. The first time you started
2 handling DEA compliance, was that 2007?

3 A. I don't remember the exact year.

4 Q. If we go back to the first page, I'm
5 sorry we're fumbling through this a little bit,
6 there's a summary of your work experience, and
7 it lists on the bottom that you were a
8 regulatory associate from 2004 to 2007. Does
9 that sound right?

10 A. That seems about right. I don't
11 specifically recall those dates, but...

12 Q. When you drafted your LinkedIn page,
13 did you make an effort to make sure it was
14 accurate?

15 MS. MILLER: Object to form.

16 A. I don't recall doing anything to
17 intentionally not be accurate, but I don't spend
18 much time on LinkedIn or use LinkedIn very
19 often.

20 BY MR. ELSNER:

21 Q. Okay. Above that you listed
22 "Regulatory Specialist - DEA Compliance" from
23 2007 to 2012. Does that -- is that accurate?

24 A. That's what it says there. Again, I

1 don't specifically recall the dates where I
2 started the position, but that's what it says.

3 Q. Okay. And then in 2012 you were a
4 senior regulatory specialist for DEA compliance,
5 is that right?

6 A. I know in 2012 I was a senior
7 regulatory specialist.

8 Q. Okay. And Henry Schein hired the
9 Buzzeo Group as consultants to work on the
10 suspicious order monitoring program for
11 controlled substances, is that right?

12 MR. MONTMINY: Objection. Outside the
13 scope.

14 A. I don't recall exactly why we hired
15 Buzzeo, if it was there specifically for SOM or
16 just general compliance.

17 BY MR. ELSNER:

18 Q. Do you know when Henry Schein hired
19 Buzzeo?

20 A. I don't recall.

21 Q. Do you know what Buzzeo -- what was
22 your understanding of what work Buzzeo was doing
23 for Henry Schein?

24 MR. MONTMINY: Objection. Outside the

1 scope.

2 A. We worked with Buzzeo on general DEA
3 compliance issues, as I remember it.

4 BY MR. ELSNER:

5 Q. Such as what?

6 A. Inspections, SOM, anything that had to
7 do with DEA compliance.

8 Q. Who specifically at Buzzeo did you
9 work with?

10 A. There were a number of people. I
11 can't recall everyone that I worked with at
12 Buzzeo.

13 Q. You said that Buzzeo did work for
14 Henry Schein on their SOM program. What type of
15 work did they do?

16 MR. MONTMINY: Objection. Outside the
17 scope.

18 A. So I recall working with Buzzeo on --
19 I mean, I used to speak to Buzzeo for guidance
20 on lots of topics, not specific to SOM, but they
21 helped us develop the newer system, I guess,
22 that I was a part of. That was part of the role
23 that they played.

24 BY MR. ELSNER:

1 Q. The newer system is a newer suspicious
2 order monitoring system for controlled
3 substances, is that what you mean?

4 A. Yeah, it was either the newer or
5 enhanced system that was being worked on.

6 Q. Were they -- what was --

7 A. The enhanced system.

8 Q. The enhanced system.

9 Did Buzzeo assist Henry Schein in
10 developing an algorithm for its suspicious order
11 monitoring program?

12 MR. MONTMINY: Objection. Outside the
13 scope.

14 A. I believe so.

15 BY MR. ELSNER:

16 Q. And did Buzzeo create training
17 materials and train employees at Henry Schein on
18 the suspicious order monitoring system?

19 A. What exactly do you mean by
20 "training"?

21 Q. Well, did they develop training
22 materials for Henry Schein to train their
23 employees on the suspicious order monitoring
24 system for controlled substances?

1 A. I don't recall any specific
2 documentation or training materials.

3 Q. Did they come into Henry Schein and
4 offer training, seminars, or sessions with
5 employees at Henry Schein?

6 MR. MONTMINY: Objection. Outside the
7 scope.

8 A. I recall at least one training.

9 BY MR. ELSNER:

10 Q. Who did the training, do you recall?

11 A. I don't recall who it was.

12 Q. What work were you doing on the
13 suspicious order monitoring system at Henry
14 Schein for controlled substances?

15 A. At which point are you referring to?

16 Q. Walk me through from 2007 to 2012.

17 A. I know in 2007, if that's when I
18 transitioned based on my LinkedIn page, I was
19 probably just learning. And then by the end in
20 2012, my role was again -- specifically to SOM?

21 Q. Yes.

22 A. I was conducting site visits on
23 customers and reviewing orders that were flagged
24 by the SOM system.

1 Q. So as I understand it, the suspicious
2 order monitoring system would use an algorithm
3 to identify potentially suspicious orders, is
4 that generally accurate?

5 MS. MILLER: Object to form.

6 A. The suspicious order monitoring system
7 was a piece of the process used to identify
8 orders of interest, but that wasn't the only way
9 to identify orders.

10 BY MR. ELSNER:

11 Q. And once orders were identified of
12 interest, did you have responsibility for
13 reviewing those orders to determine whether they
14 were potentially suspicious of diversion or not?

15 MS. MILLER: Object to form.

16 A. That was part of my responsibilities.

17 BY MR. ELSNER:

18 Q. What would you do to do that when you
19 worked at Henry Schein?

20 A. It all depended on the order. There
21 were tons of approaches to take to review an
22 order.

23 Q. Do you know what the criteria that
24 Henry Schein was using at that time, what its

1 algorithm was pulling orders for to determine
2 whether they should be -- whether they should
3 have an enhanced review?

4 MR. MONTMINY: Objection. Form,
5 outside the scope.

6 A. The specific logic used by the
7 algorithm, I didn't know that. I knew at a high
8 level the system was looking for orders of
9 unusual size, buying pattern, or frequency.

10 BY MR. ELSNER:

11 Q. When they identified those orders,
12 what were the tools that you used to determine
13 whether an order was -- should be further
14 investigated?

15 MS. MILLER: Object to form.

16 A. There is no limitation on what I could
17 use. Whatever information that was available to
18 me or that I could use, I did.

19 BY MR. ELSNER:

20 Q. What information was available to you?
21 Were there databases that you could pull upon,
22 or was there order history you could review?
23 What were the items you could look at to
24 determine whether a particular order was worthy

1 of enhanced investigation?

2 MR. MONTMINY: Objection. Form,
3 outside the scope.

4 A. I can't remember everything that I
5 used. Some of the things you mentioned were
6 data sources that we used. It also included
7 phone calls or site visits or internet searches.
8 I mean, there were -- any resource that I could
9 use, I would -- was available.

10 BY MR. ELSNER:

11 Q. Did you have databases that you could
12 pull upon, outside databases that you could pull
13 upon to search for information about particular
14 physicians?

15 MS. MILLER: Object to form.

16 A. I'm not sure what you're referring to
17 by outside databases.

18 BY MR. ELSNER:

19 Q. Well, you mentioned that you could
20 access information on the internet about people,
21 and you do research and internet searches. So
22 what type of searches are we talking about?

23 A. There were lots of searches. One
24 example would be if it was a doctor's office, I

1 would just Google the doctor office name.

2 Q. Okay. Anything else?

3 A. There are lots of things. Anything
4 that I would see or could research, I would do.

5 Q. I appreciate there are lots of things,
6 but I need to get a more specific sense of what
7 you actually did.

8 So did you look to determine whether
9 they had a valid DEA license?

10 MS. MILLER: Object to form.

11 A. That specifically was not my role.

12 BY MR. ELSNER:

13 Q. Okay. Did you look to see whether
14 they had a criminal background, or a criminal
15 history?

16 MS. MILLER: Object to form.

17 A. I don't recall ever specifically
18 looking for that.

19 BY MR. ELSNER:

20 Q. What determined whether you would make
21 a site visit to a particular doctor's office or
22 dentist's office or something else like that?

23 MS. MILLER: Object to form.

24 A. I don't think there was one criteria

1 that when I saw it I said, this needs a site
2 visit.

3 BY MR. ELSNER:

4 Q. Well, you didn't visit every doctor's
5 office that was identified by the suspicious
6 order monitoring system, right?

7 A. I don't believe so.

8 Q. Okay. So what were among the criteria
9 you would use to determine whether you were
10 going to conduct a site visit?

11 MR. MONTMINY: Object to form.
12 Outside the scope.

13 A. There's lots of situations that would
14 cause me to do a site -- there is not one or
15 two, but there were lots.

16 BY MR. ELSNER:

17 Q. Well, give us some examples.

18 A. If there was -- if I felt that an
19 order was significantly higher than someone's
20 previous order.

21 Q. What would make it significantly
22 higher?

23 A. I don't know. Determination at the
24 time.

1 Q. How far back in the order history
2 would you look to determine whether this
3 particular order was significantly higher than
4 prior orders?

5 MR. MONTMINY: Objection. Form,
6 outside the scope.

7 A. I don't recall it. I'm sure it was
8 different for every situation.

9 BY MR. ELSNER:

10 Q. Was there a particular database at
11 Henry Schein that contained that information?

12 A. We had a data warehouse.

13 Q. What data was contained in the data
14 warehouse that you used to conduct your
15 suspicious order monitoring review?

16 MR. MONTMINY: Objection. Form.

17 A. I don't recall everything that I
18 pulled out of there. I know order history was
19 one.

20 BY MR. ELSNER:

21 Q. What else?

22 A. I don't recall what else was in there.

23 Q. Did you ever seek from a physician's
24 office information about their patients?

1 MR. MONTMINY: Objection. Form,
2 outside the scope.

3 A. I'm not sure what you mean by
4 information on patients.

5 BY MR. ELSNER:

6 Q. Well, did you determine what kind of
7 physician the doctor was and what kind of
8 patients the physician was providing services
9 to?

10 MR. MONTMINY: Objection. Form,
11 outside the scope.

12 A. Part of when I spoke to a physician I
13 would ask what their practice was, and typically
14 I get a high level what are your visits like
15 with patients. I never got to details.

16 BY MR. ELSNER:

17 Q. When you say high level what were your
18 visits like with patients, you'd ask them how
19 long they'd spend with a patient?

20 MS. MILLER: Object to form.

21 A. Not specifically. Every conversation
22 with a doctor was different. But I'd ask how
23 many patients you'd seen, as an example, but
24 every conversation was different.

1 BY MR. ELSNER:

2 Q. How long do those calls generally
3 last?

4 MR. MONTMINY: Objection. Form,
5 outside the scope.

6 A. Every call was a different length.

7 BY MR. ELSNER:

8 Q. Every call was unique and completely
9 different? You never asked the same question,
10 you never had a set of questions that you were
11 sure to follow up with with each physician?

12 MR. MONTMINY: Objection. Form.

13 A. I believe there are guidelines that I
14 used, but every call was unique.

15 BY MR. ELSNER:

16 Q. So other than how many patients the
17 doctor had seen, what else would you ask?

18 MR. MONTMINY: Objection. Form,
19 outside the scope.

20 A. It all depends on why I was following
21 up on the order.

22 BY MR. ELSNER:

23 Q. Did you ever ask for dispensing
24 history from a physician's office?

1 MR. MONTMINY: Objection. Form.

2 A. I don't recall.

3 BY MR. ELSNER:

4 Q. Did you ever ask whether that
5 physician was ordering controlled substances
6 from other wholesale distributors?

7 MR. MONTMINY: Objection. Form.

8 A. I might have. I don't specifically
9 remember.

10 BY MR. ELSNER:

11 Q. What else do you remember about what
12 you'd ask physicians for.

13 MR. MONTMINY: Objection. Form.

14 A. Again, it all depended on why I was
15 conducting the order.

16 BY MR. ELSNER:

17 Q. When you were going to do a site
18 visit, what was it that you were looking for?

19 MR. MONTMINY: Objection. Form.

20 A. It all depends on why I decided to do
21 the site visit.

22 BY MR. ELSNER:

23 Q. Give me an example, any example.

24 A. At a high level I was looking to see

1 that they were a legitimate physician.

2 Q. How did you do that?

3 MS. MILLER: Object to form.

4 A. Doing a site visit and speaking with
5 the doctor or, like I said, Google searches and
6 reviews. I mean, there was tons of resources.

7 BY MR. ELSNER:

8 Q. Did you look at dispensing history
9 from those physicians' offices? When you
10 conducted a site visit, would you ask to see
11 their dispensing records?

12 MR. MONTMINY: Object to form.
13 Outside the scope.

14 A. I don't recall ever asking to see
15 dispensing records.

16 BY MR. ELSNER:

17 Q. There came a time when you -- strike
18 that.

19 Buzzeo had annual conferences for
20 controlled substances, is that right?

21 A. I believe they were annual.

22 Q. And you attended some of those?

23 A. Yes.

24 Q. How many of them did you attend?

1 A. I don't recall.

2 Q. More than one?

3 A. I attended more than one.

4 Q. How many?

5 MS. MILLER: Object to form.

6 BY MR. ELSNER:

7 Q. Five?

8 MS. MILLER: Object to form.

9 A. I don't recall the exact number.

10 BY MR. ELSNER:

11 Q. They had a conference at the Crystal
12 Gateway Marriott in Arlington, Virginia in
13 October of 2008. That was the sixth one. Did
14 you attend that one in 2008?

15 MS. MILLER: Object to form.

16 A. I don't specifically remember the
17 year, but it's possible.

18 MR. ELSNER: We'll mark this document
19 as Exhibit 2.

20 (Whereupon, CVS-Schiavo-2 was marked
21 for identification.)

22 BY MR. ELSNER:

23 Q. This is MR 98.

24 MS. MILLER: One copy is for me. You

1 keep that one.

2 MR. MONTMINY: Do you have an extra
3 copy of that?

4 BY MR. ELSNER:

5 Q. Mr. Schiavo, I placed before you a
6 series of e-mails. And if you start on the
7 bottom e-mail on the first page, which is
8 495778, you are among the recipients of this
9 e-mail from Leslie Lowry. Do you see your name
10 there?

11 A. Yes.

12 Q. And this relates to the "8th Annual CS
13 Conference - Agenda & Speaker Information," is
14 that right?

15 A. That's what the subject says.

16 Q. Do you know who Leslie Lowry is?

17 A. I don't remember exactly what her role
18 was. I do remember having conversations and
19 talking with her.

20 Q. And she's with the Buzzeo Group, is
21 that right?

22 A. She -- at that time it looks like they
23 were Cegedim, but...

24 Q. Previously they were the Buzzeo Group,

1 they changed names?

2 A. As I understand it, yes.

3 Q. And it attaches an agenda to the 8th
4 Annual Controlled Substances Conference, is that
5 right?

6 A. That's what it says.

7 Q. Okay. And if you look at the
8 conference schedule, you're listed as a speaker
9 at this conference, is that right?

10 A. Which page are we looking at?

11 Q. If we start toward the back, 495784.

12 A. It has me listed as a speaker.

13 Q. Okay. And then there you're listed --
14 your title on this is "Regulatory Specialist/DEA
15 Compliance, Henry Schein," correct?

16 A. That's what it says.

17 Q. Was that accurate?

18 A. I don't have reason to believe it
19 wasn't accurate.

20 Q. Okay. And it appears that you're on
21 two back-to-back panels, one from 4 to 4:45, and
22 then on the second panel on SOM compliance,
23 you're listed at the top of the following page
24 at 495785, is that right?

1 A. I see that.

2 Q. Did you speak at this conference?

3 A. I don't remember it to be the 8th, but
4 I did speak at a Buzzeo conference, yes.

5 Q. Did you do it one time, or did you do
6 it more than once?

7 A. I remember speaking at one Buzzeo
8 conference.

9 Q. Could it have been more?

10 MS. MILLER: Object to form.

11 A. When you say "speak," you mean
12 present?

13 BY MR. ELSNER:

14 Q. Well, let's start with present. Did
15 you present at more than one conference?

16 A. I don't believe I presented at more
17 than one conference.

18 Q. Did you otherwise speak at more than
19 one conference?

20 A. While at the conference I've had
21 conversation with colleagues.

22 Q. I meant in a public way.

23 A. No.

24 Q. Was there a reason that you asked me

1 whether you -- you seem to define my term of
2 presentation to speak or not, so was there a
3 reason that you did that?

4 MS. MILLER: Object to form.

5 A. I just want to make sure I answered
6 your question.

7 BY MR. ELSNER:

8 Q. And I want to make sure I've exhausted
9 your participation in these conferences. Did
10 you -- other than speak at this particular
11 conference, did you otherwise participate in the
12 conference in any other way than as an observer,
13 if you attended others?

14 MS. MILLER: Object to form.

15 A. Aside from speaking at this one
16 conference, that was the only time I can recall
17 being asked to contribute anything to the
18 conference.

19 BY MR. ELSNER:

20 Q. Who asked you to speak?

21 A. I don't remember who originally asked
22 me to speak.

23 Q. Do you know why they asked you to
24 speak? What did they tell you?

1 MS. MILLER: Object to form.

2 A. I don't remember the specific
3 conversation where they asked me to speak.

4 BY MR. ELSNER:

5 Q. This is the 8th Annual Controlled
6 Substance Conference. Had you attended any
7 conferences before this conference where you
8 were asked to speak?

9 MS. MILLER: Object to form.

10 A. Not that I recall.

11 BY MR. ELSNER:

12 Q. So they asked you to speak at the very
13 first conference you attended, is that your
14 testimony?

15 MS. MILLER: Object to form.

16 A. That's not my testimony. I don't
17 recall if this was the first one that I went to.

18 BY MR. ELSNER:

19 Q. Did you have a -- when you attended
20 these conferences, did you keep any of the
21 materials from the conferences you attended?

22 MS. MILLER: Object to form.

23 A. Did I keep them for -- I'm sure I
24 brought materials home with me.

1 BY MR. ELSNER:

2 Q. What would you do with them when you
3 brought them home?

4 MS. MILLER: Object to form.

5 BY MR. ELSNER:

6 Q. Did you save them at your office?
7 Would you save them at home? What would you do
8 with them?

9 A. I don't recall.

10 MS. MILLER: Object to form.

11 BY MR. ELSNER:

12 Q. Do you have a file of all these
13 materials at your office or at home?

14 MS. MILLER: Object to form.

15 A. Are you asking presently, or at the
16 time of the conference?

17 BY MR. ELSNER:

18 Q. Let's say at the time of the
19 conferences when you were at Henry Schein, did
20 you keep a file of the conferences that you
21 attended at your office or at home?

22 MS. MILLER: Object to form.

23 A. I don't recall.

24 BY MR. ELSNER:

1 Q. What about today, do you have a file
2 of the conferences that you attend or the
3 conferences that you've spoken at either at your
4 office or at your home?

5 MS. MILLER: Object to form.

6 A. I know I have a copy of a
7 presentation. I don't recall having any other
8 documentation from previous conferences.

9 BY MR. ELSNER:

10 Q. So when I speak at a conference, a lot
11 of times I'll write out what I'm going to say
12 and sometimes I'll prepare a PowerPoint and I
13 have one of each. Did you do the same thing, or
14 do you just have a copy of the PowerPoint?

15 MS. MILLER: Object to form.

16 A. I honestly don't recall how I prepared
17 or what I prepared for speaking.

18 BY MR. ELSNER:

19 Q. Let me show you what we've marked as
20 Exhibit 3.

21 (Whereupon, CVS-Schiavo-3 was marked
22 for identification.)

23 BY MR. ELSNER:

24 Q. This is a copy of a PowerPoint

1 presentation. Do you see on the top left-hand
2 side it says "8th Annual Controlled Substance
3 Conference"? Did I read that correctly?

4 A. I see that.

5 Q. And the title of the PowerPoint is
6 "The Challenge to 'Know Your Customer' and Best
7 Practices." Did I read that right?

8 A. You read that right.

9 Q. Okay. And then it lists "Craig
10 Schiavo, Regulatory Specialist/DEA Compliance,
11 Henry Schein, November 2010." Did I read that
12 right?

13 A. You read that correctly.

14 Q. Did you create this PowerPoint
15 presentation?

16 MR. MONTMINY: Objection. Form.

17 Counsel, could I ask, there's no Bates
18 numbers on this document, do you know where this
19 came from?

20 MR. ELSNER: Yes, we'll get you the
21 Bates number.

22 MS. MILLER: So this wasn't
23 produced --

24 MR. ELSNER: It was produced by Henry

1 Schein, and it was produced in native, so we'll
2 get you the Bates number for that.

3 A. I'm sorry, can you just repeat the
4 question?

5 BY MR. ELSNER:

6 Q. I asked if you created this PowerPoint
7 presentation.

8 A. Can I look through it?

9 Q. Sure.

10 (Witness reviewing document.)

11 A. I recall giving input on it.

12 Q. What input? Did you assist in
13 providing the information to someone to create
14 the slides?

15 A. At some point I might have.

16 Q. Well, is this the PowerPoint you used
17 for your presentation at this conference?

18 MR. MONTMINY: Objection. Form.

19 A. I'm not sure if this is the exact
20 presentation.

21 BY MR. ELSNER:

22 Q. Does it look like it is?

23 MR. MONTMINY: Objection. Form.

24 BY MR. ELSNER:

1 Q. Do you have reason to believe that
2 it's not?

3 MR. MONTMINY: Objection. Form.

4 A. I don't have reason to believe that
5 it's not, but I don't remember this whole
6 presentation.

7 BY MR. ELSNER:

8 Q. If you turn to Page 3 of the
9 presentation, there's an overview of Henry
10 Schein. It says "Henry Schein - Over 75 Years
11 of Quality Service." Do you see that? Did I
12 read that correctly?

13 A. You read that correctly.

14 Q. Okay. And the second bullet -- or the
15 first bullet, it says that "Henry Schein is the
16 largest distributor of healthcare products and
17 services to office-based practitioners." Did I
18 read that correctly?

19 A. You read that correctly.

20 Q. Was that true --

21 MR. MONTMINY: Object to form.

22 BY MR. ELSNER:

23 Q. -- at the time?

24 A. It says it there.

1 Q. You didn't intend to put misleading
2 information in the PowerPoint, right?

3 MR. MONTMINY: Object to form.

4 MS. MILLER: Object.

5 BY MR. ELSNER:

6 Q. Correct?

7 A. I don't think I would put misleading.

8 Q. In the second bullet it says that
9 Henry Schein has 700,000 customers worldwide and
10 386,000 domestic customers, is that right?

11 MR. MONTMINY: Objection. Form.

12 A. I don't recall those numbers.

13 BY MR. ELSNER:

14 Q. That's the presentation that you gave
15 at this conference, though, is that right?

16 MR. MONTMINY: Objection. Form.

17 A. That's what it says in the deck.

18 BY MR. ELSNER:

19 Q. It then says that "Customers include
20 dental practices and laboratories, physician
21 practices, and animal health clinics." Is that
22 right?

23 MS. MILLER: Object to form.

24 A. That's what it says.

1 BY MR. ELSNER:

2 Q. Is that consistent with your
3 understanding of Henry Schein's customer base?

4 MR. MONTMINY: Objection. Form,
5 outside the scope.

6 A. I do recall those being part of the
7 customer base.

8 BY MR. ELSNER:

9 Q. If you turn to the next page, the top,
10 the heading on the top is "Why Due Diligence Is
11 Required," is that right?

12 A. That's what it says.

13 Q. And it refers to the December, 2007
14 letter from the DEA, is that right?

15 A. That's what it says.

16 Q. This is a reference to the letter that
17 was authored by Joseph Rannazzisi to all
18 manufacturers and distributors of controlled
19 substances, is that right?

20 MS. MILLER: Object to form.

21 A. As I recall, that's the letter.

22 BY MR. ELSNER:

23 Q. Okay. And you had seen that letter,
24 obviously, before with your work at Henry

1 Schein, is that right?

2 MS. MILLER: Object to form.

3 A. I had seen that letter while at Henry
4 Schein.

5 BY MR. ELSNER:

6 Q. Okay. And that letter refers to, and
7 in your first bullet you quote, to "Design and
8 operate a system to disclose to the registrant
9 suspicious orders of controlled substances," and
10 then there's a citation. You understand that to
11 be a citation to the Controlled Substances Act,
12 is that right?

13 MR. MONTMINY: Object to form.

14 MS. MILLER: Object to form.

15 A. I know that's straight out of the CFR.

16 BY MR. ELSNER:

17 Q. Do you understand that that's part of
18 the Controlled Substances Act?

19 MS. MILLER: Object to form.

20 A. I know the CFR has regulations from
21 the DEA.

22 BY MR. ELSNER:

23 Q. Did you know that the Controlled
24 Substances Act had been in place since 1970?

1 MS. MILLER: Object to form.

2 A. I didn't know the exact date.

3 BY MR. ELSNER:

4 Q. At the last bullet on this page, it
5 states "Suspicious orders include orders of
6 unusual size, orders deviating substantially
7 from a normal pattern, and orders of an unusual
8 frequency." Did I read that correctly?

9 MR. MONTMINY: Objection. Form.

10 A. You read that correctly.

11 BY MR. ELSNER:

12 Q. Okay. And this is also a quote from
13 the letter, the 2007 letter from the DEA
14 relating to reporting suspicious orders of
15 controlled substances, is that right?

16 MS. MILLER: Object to form.

17 A. Can you just repeat the question?

18 BY MR. ELSNER:

19 Q. This is a quote from the December,
20 2007 letter from the DEA, is that right?

21 MS. MILLER: Object to form.

22 A. I see the quotes around it. I don't
23 know if that's exactly from the letter.

24 BY MR. ELSNER:

1 Q. And the heading of this slide is the
2 December, 2007 letter from the DEA?

3 A. That's what it says.

4 Q. Do you understand that to be a quote
5 from the DEA letter?

6 MS. MILLER: Object to form.

7 A. I see what the title says. I see the
8 quote. I can't remember if I pulled that
9 directly out of the letter.

10 BY MR. ELSNER:

11 Q. Well, you're familiar with the letter,
12 right? You know that's what's in the letter
13 from the DEA in December of 2007? You've seen
14 it before?

15 MS. MILLER: Object to form.

16 A. I read the letter. I haven't read
17 that letter in a long time, I can't remember
18 every word in the letter, or every quote in the
19 letter.

20 BY MR. ELSNER:

21 Q. That was a pretty important part of
22 the letter, though, from the DEA in December of
23 2007, wasn't it?

24 MS. MILLER: Object to form.

1 MR. MONTMINY: Objection.

2 A. It was part of the letter.

3 BY MR. ELSNER:

4 Q. Here's the Exhibit 4 which is the
5 December 27, 2007 letter from the DEA.

6 (Whereupon, CVS-Schiavo-4 was marked
7 for identification.)

8 BY MR. ELSNER:

9 Q. This is the letter that was sent to
10 every manufacturer and distributor of controlled
11 substances, is that right?

12 MS. MILLER: Object to form.

13 A. That's how I understood the letter. I
14 don't know if I can confirm that was --

15 BY MR. ELSNER:

16 Q. Is that what it says in the first
17 letter of the -- the first sentence of the
18 letter? It says "This letter is being sent to
19 every entity in the United States registered
20 with the Drug Enforcement" Agency -- sorry --
21 "Administration to manufacture or distribute
22 controlled substances." Is that what it says?

23 A. That is what it says in the letter.

24 Q. The next sentence says "The purpose of

1 this letter is to reiterate the responsibilities
2 of controlled substance manufacturers and
3 distributors to inform DEA of suspicious orders
4 in accordance with 21 CFR 1301.74," is that
5 right?

6 MS. MILLER: Object to form.

7 BY MR. ELSNER:

8 Q. Is that what it says?

9 A. That's what it says.

10 Q. Okay. And that's what you put in the
11 very first bullet in your presentation on
12 Page 4?

13 MR. MONTMINY: Objection. Form.

14 A. That looks to be what I put.

15 BY MR. ELSNER:

16 Q. Okay. And if you look at the last
17 bullet on your presentation on Page 4,
18 "Suspicious orders include orders of unusual
19 size, orders deviating substantially from a
20 normal pattern, and orders of unusual
21 frequency." Is that what you wrote?

22 MR. MONTMINY: Object to form.

23 MS. MILLER: Objection. Form.

24 A. That's what it says here.

1 BY MR. ELSNER:

2 Q. And if you go to the last paragraph of
3 the DEA letter from December 27, 2007 in the
4 first line, the last paragraph there. Do you
5 see where I am, beginning "The regulation
6 specifically states"? Are you with me?

7 A. I'm with you.

8 Q. It says "The regulation specifically
9 states that suspicious orders include orders of
10 unusual size, orders deviating substantially
11 from a normal pattern, and orders of unusual
12 frequency." Is that what it says?

13 A. That's what it says.

14 Q. Okay. And that's what's quoted on
15 Page 4 of your presentation?

16 MS. MILLER: Object to form.

17 A. That looks to align.

18 BY MR. ELSNER:

19 Q. Turn to Page 5 of your presentation.

20 [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED]

7

7

11

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□ □ □ □ □

[REDACTED]

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1

2

3

BY MR. ELSNER:

4

Q. If you turn back to your presentation,

5

which is Exhibit 3, the PowerPoint presentation.

6

It has in the next -- on Page 5 there's a title

7

that says October 2009 Meeting with the DEA. Do

8

you see that?

9

A. On Page 5.

10

Q. The heading.

11

A. I see that.

12

Q. Okay. Did I read that accurately?

13

A. "October 2009 meeting with DEA."

14

Q. And this refers to a meeting that

15

Henry Schein had with the DEA in New York, is

16

that right?

17

MR. MONTMINY: Objection. Form.

18

A. I don't remember exactly when that

19

meeting took place, but I know that we had a

20

meeting with the DEA.

21

BY MR. ELSNER:

22

Q. Did you attend that meeting?

23

A. I attended that meeting.

24

Q. That was in Long Island?

1 A. Yes, that was on Long Island.

2 Q. And in the first bullet here, you --
3 it states "Reiterated what was documented in the
4 December 2007 letter." That refers to the DEA
5 letter of December of 2007 that we were
6 discussing, is that right?

7 MS. MILLER: Object to form.

8 A. Although I don't specifically recall
9 that, it makes sense that that's what it's
10 referring to.

11 BY MR. ELSNER:

12 Q. Okay. And then next it says "Advised
13 what was expected of HSI as a distributor of
14 controlled substances." This is the DEA
15 advising Henry Schein as to what is expected as
16 a distributor of controlled substances. Was
17 that part of the discussion?

18 A. I don't exactly remember the full
19 conversation with the DEA, but that's what it
20 says there.

21 Q. Okay. It says here that there was a
22 binder provided by the DEA which contained
23 regulations, case studies, and ARCOS
24 information. Did the DEA provide Henry Schein

1 with these materials in the DEA meeting?

2 MR. MONTMINY: Objection to form.

3 Outside the scope.

4 A. I remember getting a binder during
5 that meeting, or binders being provided.

6 BY MR. ELSNER:

7 Q. Where did you keep those at Henry
8 Schein, if you kept them?

9 MR. MONTMINY: Objection. Form,
10 outside the scope.

11 A. I don't remember where those were
12 maintained.

13 BY MR. ELSNER:

14 Q. Did you maintain them, or did somebody
15 else that attended the meeting take them with
16 them?

17 MR. MONTMINY: Objection. Form,
18 outside the scope.

19 A. I really don't recall.

20 BY MR. ELSNER:

21 Q. Who else was there from Henry Schein
22 other than you?

23 MR. MONTMINY: Objection. Form,
24 outside the scope.

1 A. The only other individuals I
2 specifically recall being there were Len David
3 and Sergio Tejeda.

4 Q. Who is Sergio Tejeda?

5 MR. MONTMINY: Objection to form.

6 A. He was my manager at the time.

7 BY MR. ELSNER:

8 Q. In the last -- do you recall what was
9 in the binder other than what's listed here?

10 A. I don't recall all this being listed
11 being in the binder. I see it says it there. I
12 don't recall -- if this was it, I don't recall
13 what else was in there.

14 Q. In the last bullet it says "Put HSI on
15 notice." Is that what it says?

16 A. That is what it says.

17 Q. And that was to put Henry Schein on
18 notice of its obligations with respect to the
19 distribution of controlled substances, is that
20 right?

21 MR. MONTMINY: Objection. Form.

22 A. I'm not exactly sure what I meant by
23 that.

24 BY MR. ELSNER:

1 Q. You're not sure what you meant by "Put
2 HSI on notice"? Is there anything else they
3 could have put you on notice about that came up
4 in that meeting?

5 MS. MILLER: Object to form.

6 MR. MONTMINY: Object to form.

7 A. I don't recall.

8 BY MR. ELSNER:

9 Q. But that's what you wrote, is that
10 right?

11 MR. MONTMINY: Object to form.

12 A. Again, I don't know if I wrote that,
13 but that's what it says in here.

14 BY MR. ELSNER:

15 Q. That's in the presentation you gave,
16 is that right?

17 MS. MILLER: Object to form.

18 MR. MONTMINY: Object to form.

19 A. I don't know if this is the exact
20 presentation I gave, but that is in this
21 presentation that we're reviewing.

22 BY MR. ELSNER:

23 Q. You have no reason to believe that
24 it's not in the presentation that you gave to

1 everyone that attended this conference, is that
2 right?

3 MR. MONTMINY: Objection. Form.

4 A. If you're saying that's what this is,
5 I don't have reason to believe that it isn't,
6 but I don't recall this being the exact
7 presentation.

8 BY MR. ELSNER:

9 Q. If you turn to the -- let me ask one
10 other question.

11 Who asked for the meeting? Did Henry
12 Schein ask for the meeting with the DEA, or did
13 the DEA ask to meet with Henry Schein?

14 MR. MONTMINY: Objection. Form,
15 outside the scope.

16 A. I believe the DEA asked for this
17 meeting.

18 BY MR. ELSNER:

19 Q. Okay. Do you understand why the DEA
20 asked for the meeting?

21 MS. MILLER: Object to form.

22 A. I don't know if I ever knew the exact
23 reason why.

24 BY MR. ELSNER:

1 Q. If you turn to the next page of the
2 PowerPoint, this is "HSI SOM Implementation
3 Challenges." Is that what the heading says?

4 A. That is what the heading says.

5 Q. Okay. One of the challenges that
6 Henry Schein faced from a suspicious order
7 monitoring point of view was the amount of
8 customers that they had, which is listed in the
9 second bullet, right? It says "Amount of
10 customers (386,000 total/36,300 purchase
11 controls)."

12 What does purchase controls refer to?

13 MR. MONTMINY: Objection. Form,
14 compound.

15 A. I'm not exactly sure.

16 BY MR. ELSNER:

17 Q. One of the challenges that Henry
18 Schein faced in its suspicious order monitoring
19 program was the number of customers that it had,
20 is that correct?

21 MR. MONTMINY: Objection. Form,
22 outside the scope.

23 A. It's documented there as a challenge.

24 BY MR. ELSNER:

1 Q. And it says it had a "Vast/complicated
2 customer base (Dental/Mental/Vet)," right?

3 MS. MILLER: Object to form.

4 MR. MONTMINY: Objection. Form.

5 A. That is what it says.

6 BY MR. ELSNER:

7 Q. In the fourth bullet, one of the
8 challenges in the SOM implementation at Henry
9 Schein was a "Lack of resources." Is that what
10 it says?

11 MR. MONTMINY: Objection. Form.

12 A. That is what it says.

13 BY MR. ELSNER:

14 Q. Lack of resources to do due diligence
15 on new accounts, correct?

16 MR. MONTMINY: Objection. Form.

17 A. That's what it says.

18 BY MR. ELSNER:

19 Q. To review pending accounts, is that
20 right?

21 MR. MONTMINY: Objection. Form,
22 outside the scope.

23 A. That's what it says.

24 BY MR. ELSNER:

1 Q. And a lack of resources for site
2 visits, correct?

3 MR. MONTMINY: Objection. Form,
4 outside the scope.

5 A. That is what it says.

6 BY MR. ELSNER:

7 Q. Okay. One of the other implementation
8 challenges for the SOM program under
9 "Sales/Field Sales Representatives" in the
10 second bullet says a "Conflict of interest?"

11 What are you referring to there?

12 MR. MONTMINY: Objection. Form,
13 outside the scope.

14 A. I don't know exactly what I meant when
15 I put that.

16 BY MR. ELSNER:

17 Q. Was there a conflict of interest
18 between those who were trying to sell products
19 and obtain new customers for controlled
20 substances versus compliance?

21 MR. MONTMINY: Objection. Form,
22 outside the scope.

23 A. I guess there could be, but I guess --
24 I think that depends on the person, but again I

1 don't know exactly what I was referring to here.

2 BY MR. ELSNER:

3 Q. Is that a potential conflict of
4 interest that could exist within a company
5 related to the monitoring for suspicious orders
6 of controlled substances?

7 MR. MONTMINY: Objection. Form.

8 A. I don't know. I know specifically at
9 Henry Schein that was not a concern of mine.

10 BY MR. ELSNER:

11 Q. But you wrote "Sales/Field
12 Representatives Conflict of Interest." Is that
13 what you wrote?

14 MR. MONTMINY: Object to form.

15 A. That's what this document says.

16 BY MR. ELSNER:

17 Q. It also says one of the implementation
18 challenges is "Cooperation from customers,"
19 correct?

20 MR. MONTMINY: Objection. Form.

21 A. That's what it says.

22 BY MR. ELSNER:

23 Q. What did you mean by that?

24 MS. MILLER: Objection. Form.

1 A. Again, I don't know exactly what I
2 meant when I put this together.

3 BY MR. ELSNER:

4 Q. Well, did you have any difficulties in
5 the Henry Schein customers that you were
6 interacting with to obtain information from them
7 in order that you can conduct your due
8 diligence?

9 MR. MONTMINY: Objection. Form.

10 A. I can't remember any specific
11 examples, but every interaction with the
12 prescriber was different. Some were easier to
13 work with than others.

14 BY MR. ELSNER:

15 Q. You don't recall a single instance
16 where there was a client at Henry Schein where
17 you had requested information and they were not
18 cooperating fully with your request for the
19 information?

20 MR. MONTMINY: Objection. Form.

21 A. I can't recall a time where we had a
22 customer who -- I mean, I recall there being
23 difficult conversations with customers. I don't
24 recall any situations where I couldn't get what

1 I needed to conduct due diligence.

2 BY MR. ELSNER:

3 Q. Do you recall conversations with
4 clients that were angry or frustrated that Henry
5 Schein had not distributed or sold a controlled
6 substance to them?

7 MR. MONTMINY: Objection. Form,
8 outside the scope.

9 A. I don't remember any specific
10 conversations.

11 BY MR. ELSNER:

12 Q. Do you recall that there were
13 physicians that Henry Schein was distributing
14 drugs to, some of whom were self-medicating?

15 MR. MONTMINY: Objection. Form,
16 outside the scope.

17 A. I don't recall any specific prescriber
18 that we knew that was self-medicating that we
19 would distribute to. I believe -- sorry.

20 BY MR. ELSNER:

21 Q. Sorry, I didn't mean to interrupt. I
22 thought you were done.

23 A. I believe our process or our policy
24 was not to distribute to self-medicating.

1 Q. Why?

2 MR. MONTMINY: Objection. Form,
3 outside the scope.

4 A. That was our policy. I don't think I
5 wrote the policy.

6 BY MR. ELSNER:

7 Q. It's because the drugs are highly
8 addictive, right?

9 MR. MONTMINY: Objection. Form,
10 argumentative.

11 A. Not necessarily.

12 BY MR. ELSNER:

13 Q. You don't understand a controlled
14 substance to be potentially highly addictive?

15 MS. MILLER: Object to form.

16 MR. MONTMINY: Object to form.

17 A. I know that some controlled substances
18 can be addictive.

19 BY MR. ELSNER:

20 Q. If you turn to the next page in your
21 presentation under "Henry Schein's Suspicious
22 Order Monitoring" on Page 7. Do you see where
23 I'm at?

24 MR. MONTMINY: Objection. Form.

1 A. I see where you're at.

2 BY MR. ELSNER:

3 Q. And there's a title there about

4 "Active Ingredients," is that right?

5 A. I see that.

6 Q. It says "All quantities and values
7 calculated and used in this system are at the
8 active ingredient level." What does that mean?

9 A. I believe that's looking at both brand
10 name and generic drugs if they had the same
11 active ingredient.

12 Q. So Henry Schein had a -- as a
13 component of its suspicious order monitoring
14 program was measuring drugs it was selling by
15 active ingredient, is that right?

16 MS. MILLER: Object to form.

17 A. Can you just ask that one more time,
18 please?

19 BY MR. ELSNER:

20 Q. So Henry Schein had as a component of
21 its suspicious order monitoring program a system
22 to measure drugs it was selling by active
23 ingredient?

24 MR. MONTMINY: Object to form.

1 Outside the scope.

2 A. Drugs that were ordered, we took
3 active ingredient into account.

4 BY MR. ELSNER:

5 Q. So that you understood that if
6 somebody ordered two different drugs' names, but
7 they had the same active ingredient, you could
8 calculate those two together to understand the
9 total amount of that substance they were
10 ordering, isn't that the purpose?

11 MS. MILLER: Object to form.

12 MR. MONTMINY: Objection. Form.

13 A. I don't recall what the exact purpose
14 is, but it was to see for that active ingredient
15 how much was being ordered.

16 BY MR. ELSNER:

17 Q. And the only way to do that is to
18 measure by active ingredient, you couldn't do it
19 by drug name, correct?

20 MR. MONTMINY: Object to form.

21 MS. MILLER: Object to form.

22 A. I don't know that to be the case.

23 BY MR. ELSNER:

24 Q. When did Henry Schein have a system in

1 place -- you gave this presentation in November
2 of 2010. When did Henry Schein have a system in
3 place to calculate drugs by active ingredient as
4 a component of its suspicious order monitoring
5 system?

6 MS. MILLER: Object to form.

7 MR. MONTMINY: Objection to form.

8 Outside the scope.

9 A. I don't recall when that happened.

10 BY MR. ELSNER:

11 Q. Well, it was in place in 2010, right?

12 MS. MILLER: Object to form.

13 A. I don't recall.

14 BY MR. ELSNER:

15 Q. That's what this presentation says,
16 right?

17 MS. MILLER: Object to form.

18 A. It looks like that's what this is
19 indicating.

20 BY MR. ELSNER:

21 Q. Do you know whether it was in the new
22 system that Henry Schein created or whether it
23 was in the existing system that Henry Schein
24 created when you arrived and took over these

1 roles?

2 MR. MONTMINY: Objection. Form,
3 outside the scope.

4 A. I don't recall what -- prior to me
5 getting involved in this, I don't recall what
6 the old system had or used, but that was a
7 component of the new enhanced system that we
8 had.

9 BY MR. ELSNER:

10 Q. It was a component of the newer
11 enhanced system. And when did that come into
12 place?

13 MR. MONTMINY: Objection. Form,
14 outside the scope.

15 A. I don't recall.

16 BY MR. ELSNER:

17 Q. Well, was the enhanced system the
18 system that you were working on when you moved
19 into a new role at Henry Schein related to DEA
20 regulations in 2007?

21 MR. MONTMINY: Objection. Form,
22 outside the scope.

23 A. I'm not sure I understand the
24 question.

1 BY MR. ELSNER:

2 Q. I'm trying to understand the time
3 frame. You said that there was a SOM system,
4 and then at Henry Schein there was an enhanced
5 SOM system. So I'm trying to understand the
6 time frame of when you were working on the
7 enhanced SOM system. That's part of what you
8 were working on, is that right?

9 MR. MONTMINY: Object to form.

10 MS. MILLER: Object to form.

11 A. At some point during my role we worked
12 on enhancing our SOM system.

13 BY MR. ELSNER:

14 Q. But at some time when, 2007, '8, '9?

15 A. I really don't recall.

16 Q. That's part of what you were working
17 on was the enhanced system, though, when you
18 moved into that position in 2007, is that right?

19 MR. MONTMINY: Objection. Form.

20 A. I don't recall what I was doing when I
21 went into that position.

22 BY MR. ELSNER:

23 Q. Well, what's your best memory of what
24 system was in place when you moved into that

1 position in 2007 and when you were working on
2 the enhanced system?

3 MR. MONTMINY: Objection. Form.

4 A. I really don't recall much about the
5 old system, and I don't remember.

6 BY MR. ELSNER:

7 Q. Did you work on the enhanced system?

8 A. I was part of a team that worked on
9 the enhanced system.

10 Q. Okay. What's your best estimate of
11 when you were doing that work?

12 MR. MONTMINY: Objection. Form.

13 A. I don't remember. Sometime when I
14 started the role.

15 BY MR. ELSNER:

16 Q. When you gave this presentation in
17 November of 2010, was the enhanced system fully
18 active or not?

19 MR. MONTMINY: Objection. Form.

20 A. I don't recall.

21 MR. ELSNER: I'm going to mark this
22 next document as Exhibit 6.

23 (Whereupon, CVS-Schiavo-6 was marked
24 for identification.)

1 BY MR. ELSNER:

2 Q. This is MR 268. Do you see the first
3 page is a cover e-mail from you to three
4 individuals? Who are the three individuals that
5 you sent this e-mail to?

6 A. Len David, Mike DiBello, and Sergio
7 Tejeda.

8 Q. Who are they?

9 A. Sergio was my manager at the time.
10 Mike was -- I believe he was the director in
11 compliance who Sergio reported up to. And I
12 believe at the time Len David was our chief
13 compliance officer who Mike reported up to.

14 Q. This e-mail is dated October 20, 2009,
15 is that right?

16 A. That's what it says.

17 Q. The subject of the e-mail is "DEA
18 Meeting 10-21-09," is that right?

19 A. That's what it says.

20 Q. And it says "Len." This is you
21 writing. "Len, Attached please find the handout
22 we prepared for tomorrow's meeting with the
23 DEA." Is that right?

24 A. I don't recall writing this e-mail,

1 but that's what it says.

2 Q. Okay. And it's sent by you to these
3 individuals, correct?

4 A. It appears to be.

5 Q. And it attaches -- you see an
6 attachment, "DEA Meeting 10-21-09" on the little
7 image there on the first page, is that right?

8 A. Yes. I see that.

9 Q. It attaches a PowerPoint presentation
10 dated October 21, 2009, is that right?

11 A. That's what it says.

12 Q. And this is the PowerPoint
13 presentation you sent to the group?

14 A. If this is that attachment, then it
15 appears to be what I must have sent.

16 Q. Did you create this PowerPoint
17 presentation?

18 A. I don't recall this PowerPoint,
19 looking at the cover page.

20 Q. On the second page there's an overview
21 of Henry Schein's business, is that right?

22 A. That's what it appears to be.

23 Q. And if you turn to the third page of
24 the PowerPoint, it lists under "Active

1 Ingredients" -- do you see where I'm at?

2 A. Yes.

3 Q. Okay. It says something strikingly
4 similar, "All quantities and values calculated
5 and used in this system are at the active
6 ingredient level," is that right?

7 MR. MONTMINY: Object to form.

8 A. That's what it says. So I don't
9 remember putting this document together, I don't
10 remember if there was input from our legal team,
11 so I would like to talk to my lawyer to see what
12 I can discuss or -- I don't remember this
13 document or the reason it being put together.

14 BY MR. ELSNER:

15 Q. Well, that's what's written in the
16 PowerPoint presentation, right, that under
17 Active Ingredients it says "All quantities and
18 values calculated and used in this system are at
19 the active ingredient level"? Is that what it
20 says?

21 MS. MILLER: Mike, let's take a break.
22 He's asked to confer. He's asked to confer
23 about privilege issues.

24 MR. ELSNER: All right. We'll go off

1 the record. I generally do not -- the
2 conversation needs to be limited to privilege
3 issues and not a conversation about the
4 document.

5 MS. MILLER: Understood. Understood.

6 THE VIDEOGRAPHER: We're going off the
7 record at 9:29 a.m.

8 (Whereupon, a recess was taken.)

9 THE VIDEOGRAPHER: We're back on the
10 record at 9:42 a.m.

11 BY MR. ELSNER:

12 Q. Mr. Schiavo, before we broke I was
13 showing you the DEA PowerPoint presentation, and
14 we were looking at -- and the date of this is
15 October 21, 2009, and we were looking at the
16 third page under Henry -- the topic heading of
17 that page is "Henry Schein, Inc.'s Suspicious
18 Order Monitoring."

19 Do you see that?

20 A. I see that.

21 Q. Okay. And there's a topic here, it
22 says "Active ingredients," and it reads "All
23 quantities and values calculated and used in
24 this system are at the active ingredient level."

1 Did I read that correctly?

2 A. That is what it says.

3 Q. Okay. So it's true, is it not, that
4 as of October of 2009 Henry Schein had a
5 suspicious order monitoring system in place that
6 tracked drugs by active ingredient?

7 MS. MILLER: Object to form.

8 A. That's the date of this presentation.
9 That's what it says. I don't remember exactly
10 when we started doing that, but that's what it
11 says.

12 BY MR. ELSNER:

13 Q. Okay. Meeting with the DEA was an
14 important event, right?

15 MR. MONTMINY: Objection to form.

16 A. We met with the DEA, they asked.

17 BY MR. ELSNER:

18 Q. But you recognize that to be an
19 important event?

20 MS. MILLER: Object to form.

21 A. I'm not sure what you mean by
22 important, but --

23 BY MR. ELSNER:

24 Q. Well, the DEA regulated Henry Schein's

1 distribution of controlled substances, correct?

2 A. Henry Schein was a DEA registrant, and
3 there are certain regulations that as a
4 registrant we needed to follow.

5 Q. And if you don't follow those
6 regulations, one of the things that the DEA can
7 do is remove your license to sell those drugs,
8 correct?

9 MS. MILLER: Object to form.

10 A. We have a DEA registration. I know
11 there's penalties if you don't comply with
12 certain regulations.

13 BY MR. ELSNER:

14 Q. And one of those penalties could be
15 suspending or removing the registrant's license,
16 correct?

17 MS. MILLER: Object to form.

18 A. I guess there's various degrees of
19 penalties.

20 BY MR. ELSNER:

21 Q. But you understood those to be
22 included among them, correct?

23 MR. MONTMINY: Objection to form.

24 A. I mean, it's a DEA registration, so...

1 BY MR. ELSNER:

2 Q. Well, do you know or don't know
3 whether the DEA could revoke someone's license?

4 MS. MILLER: Object to form.

5 A. It's a DEA license. That could be one
6 of the penalties.

7 BY MR. ELSNER:

8 Q. Do you know, or are you just guessing?

9 MS. MILLER: Object to form.

10 A. I know that if you don't follow
11 certain DEA regulations there's various degrees
12 of penalties.

13 BY MR. ELSNER:

14 Q. And it would be important for you,
15 wouldn't it, in meeting with the DEA that the
16 information that you told them was accurate,
17 right?

18 MR. MONTMINY: Objection to form.

19 A. I don't ever recall putting anything
20 together with the intent of being inaccurate.

21 BY MR. ELSNER:

22 Q. Because -- and you were careful,
23 weren't you?

24 MS. MILLER: Object to form.

1 A. I try to be careful. But in terms of
2 this document, I don't remember putting it
3 together.

4 BY MR. ELSNER:

5 Q. And the document says that as of this
6 date in October of 2009 that Henry Schein had a
7 suspicious order monitoring system in place that
8 calculated quantities and values using the
9 active ingredient level, correct?

10 MR. MONTMINY: Objection. Form.

11 A. I see that it says that.

12 BY MR. ELSNER:

13 Q. Okay. And you understand that Henry
14 Schein did have such a system in place, is that
15 right?

16 MR. MONTMINY: Objection. Form.

17 A. I understand at some point that was an
18 aspect of the system.

19 BY MR. ELSNER:

20 Q. And you have no reason to believe that
21 this is inaccurate, that you told the DEA
22 something that was not actually truthful, is
23 that right?

24 MR. MONTMINY: Objection. Form.

1 A. I don't recall nor do I -- would I
2 intend to be inaccurate to the DEA, but
3 specifically to this, I don't remember putting
4 this together, I don't specifically know exactly
5 what it was referring to, so...

6 BY MR. ELSNER:

7 Q. Here's what I'm trying to understand,
8 because given the way that your answers are to
9 me, it sounds like maybe you were telling the
10 DEA one thing that actually wasn't happening in
11 place at Henry Schein, is that true?

12 MR. MONTMINY: Objection to form.

13 BY MR. ELSNER:

14 Q. Or is it that you really, truthfully
15 try to make the information you told the DEA as
16 accurate as possible?

17 MR. MONTMINY: Objection. Form.

18 A. Speaking for me personally, I would
19 not try to be inaccurate.

20 BY MR. ELSNER:

21 Q. Okay. You would try to be truthful to
22 the DEA, right?

23 A. I can speak for myself, yes, I would
24 try to be truthful.

1 Q. Okay. So if you turn two pages later
2 to the same DEA presentation, it says "Henry
3 Schein, Inc.'s Suspicious Order Monitoring" on
4 the top.

5 Do you see that?

6 A. I see that.

7 Q. Okay. And among the factors that the
8 model looks at at the end, it reads "The types
9 of indicators that the model will be looking for
10 are the customers monthly activity compared to
11 his: Six month average, Twelve month average,
12 Twelve month maximum, Twenty-four month maximum,
13 and Other various trending factors." Did I read
14 that correctly?

15 A. That is what it says.

16 Q. Okay. So is it true that Henry Schein
17 had a system in place that you were monitoring a
18 customer's monthly purchases of controlled
19 substances based on the prior 6-month and prior
20 12-month average?

21 MR. MONTMINY: Objection. Form.

22 A. At the time of this meeting, I cannot
23 remember exactly what the system was.

24 BY MR. ELSNER:

1 Q. But this is what was written and
2 presented to the DEA, correct?

3 MR. MONTMINY: Objection. Form.

4 A. Based on that cover e-mail, this looks
5 like what was reviewed with the DEA.

6 BY MR. ELSNER:

7 Q. And you wouldn't try to tell the DEA
8 something that was untrue, right?

9 A. I would not intend to be untrue to the
10 DEA.

11 Q. Okay. So then it also says that the
12 system is looking at 12-month maximums and
13 24-month maximums, is that right?

14 MR. MONTMINY: Objection. Form.

15 A. That's what it says.

16 BY MR. ELSNER:

17 Q. Okay. And then it says "Other various
18 trending factors." What does other various
19 trending factors mean?

20 A. I don't recall what that's referring
21 to.

22 Q. Who at Henry Schein set the 12-month
23 max and the 24-month max?

24 MR. MONTMINY: Objection. Form,

1 outside the scope.

2 MR. ELSNER: Can you explain that
3 objection? Because I don't understand it.

4 MR. MONTMINY: Sure. We can have a
5 running objection if you want, but essentially
6 he's here to speak in his personal capacity.
7 There was no notice provided to Schein that he
8 was a former employee and no opportunity to
9 prepare for this, and as of yet you haven't
10 asked a single question about CVS.

11 MR. ELSNER: Well, under the protocol
12 I don't need to separately notice it. I do need
13 to notify you if I intend to use a document he
14 hasn't seen before, which I haven't. And I
15 think this is all fair game. So I'm happy to
16 let you have a continuing objection to the use,
17 but I don't think we need to interrupt the
18 deposition with the same scope objections
19 throughout.

20 MR. MONTMINY: Okay.

21 BY MR. ELSNER:

22 Q. Can we go back to my question? I
23 asked you if you could explain to me what the
24 other various trending factors means.

1 A. I don't recall what that's referring
2 to.

3 Q. Okay. And then I also asked who at
4 Henry Schein, to your knowledge, set the
5 12-month max and the 24-month maximums?

6 A. I don't recall who set that.

7 Q. Do you know what those maximums were?

8 A. I don't recall how that worked.

9 Q. You said that the suspicious order
10 monitoring system was only one component of the
11 due diligence program at Henry Schein. What
12 were the others for controlled substances?

13 A. I mean, at a high level it was -- we
14 had an algorithm, or algorithms, and we had a
15 due diligence process. Those were two main
16 parts.

17 Q. And the algorithm is a component of
18 the suspicious order monitoring system, right?

19 A. The algorithm or algorithms were part
20 of the process.

21 Q. Okay. And then so the other component
22 to that is due diligence based on orders that
23 were flagged or triggered by the suspicious
24 order monitoring system, correct?

1 MR. MONTMINY: Objection. Form.

2 A. That was part of the process.

3 BY MR. ELSNER:

4 Q. If you go two pages further under
5 "Standard Operating Procedures/Policies," it
6 says "Henry Schein Has Implemented and Enhanced
7 Many of Our Policies and Procedures," and then
8 it lists some things, including "Suspicious
9 Order Monitoring Policy."

10 Does this refresh your recollection
11 that as of 2009 the enhanced system had been put
12 into place at Henry Schein with respect to
13 suspicious order monitoring?

14 A. At the time of this meeting, I don't
15 recall what was in place.

16 Q. Is that what's written in the
17 presentation?

18 MR. MONTMINY: Object to form.

19 A. It says that "Henry Schein Has
20 Implemented and Enhanced Many of Our Policies
21 and Procedures."

22 BY MR. ELSNER:

23 Q. Including the suspicious order
24 monitoring program, correct?

1 A. That is one of the sub-bullets.

2 Q. And then if you go two pages further,
3 there's a "New Account Setup" page, and there's
4 a list of items that you -- one page forward.
5 Do you see where I'm at?

6 A. Okay.

7 Q. And this is the due diligence done for
8 new account setups at Henry Schein as of 2009,
9 is that right?

10 A. Again, at this time I don't exactly
11 recall what the processes were.

12 Q. But that's what's in the presentation
13 that you gave to the DEA?

14 A. That is what's --

15 MR. MONTMINY: Object to form.

16 A. That is what's in this presentation.

17 BY MR. ELSNER:

18 Q. Okay. And it included a customer
19 questionnaire for every customer ordering
20 controlled substances, is that right?

21 A. I see that's what it says there.

22 Q. And did you work with that customer
23 questionnaire for customers while at Henry
24 Schein?

1 A. I knew of a customer questionnaire.

2 Q. Did you use it?

3 A. Specifically the one that it's
4 referring to, I don't know. I know we had a
5 customer questionnaire that we used to guide due
6 diligence.

7 Q. Did you use it, the customer
8 questionnaire?

9 MR. MONTMINY: Objection. Form, asked
10 and answered.

11 A. At this time?

12 BY MR. ELSNER:

13 Q. At any time.

14 MR. MONTMINY: Same objection.

15 A. At my time at Henry Schein, I had used
16 a customer questionnaire to -- as a guideline
17 for due diligence.

18 BY MR. ELSNER:

19 Q. And you would send that questionnaire
20 out to doctors and others that were ordering
21 controlled substances, is that right?

22 A. Potentially.

23 Q. And you'd review those responses?

24 A. Either myself or someone else on the

1 team would review responses.

2 Q. And on the last page under "Pain
3 Management Clinics - Due Diligence Process," the
4 third bullet, it reads "Mandatory full
5 regulatory audit is required for final approval"
6 to receive controlled substances, is that right?

7 A. That's what it says.

8 Q. Okay. And included "Inventory
9 controls, Security systems/protocols, Interview
10 with the doctor or owner, and a Comprehensive
11 audit report including pictures of the facility
12 and background information," is that right?

13 MR. MONTMINY: Object to form.

14 A. That is what it says.

15 BY MR. ELSNER:

16 Q. Were you involved in this process at
17 Henry Schein to collect the information for this
18 mandatory full regulatory audit?

19 A. Specifically at this time I don't
20 fully recall what my role is or was with doing
21 that.

22 Q. What about later on at Henry Schein?

23 A. At some point while I worked at Henry
24 Schein that was part of my responsibilities, to

1 do due diligence.

2 Q. And this was a component of Henry
3 Schein's know your customer policies, is that
4 right?

5 MR. MONTMINY: Object to form.

6 BY MR. ELSNER:

7 Q. To collect this information?

8 MS. MILLER: Object to form.

9 MR. MONTMINY: I'd like to re-assert
10 my objection and make it clear that this witness
11 does not represent Henry Schein in this
12 deposition.

13 MR. ELSNER: You can object. Speaking
14 objections are not permitted.

15 BY MR. ELSNER:

16 Q. Go ahead.

17 A. Can you just repeat the question?

18 Q. I had asked whether these -- reviewing
19 these questionnaires and reviewing the
20 information in the mandatory regulatory audits
21 is the know your customer information that was
22 collected at Henry Schein.

23 MR. MONTMINY: Objection. Form.

24 A. I know at some part -- at some point

1 these do look like pieces of information that we
2 might look at for customers if doing due
3 diligence.

4 BY MR. ELSNER:

5 Q. If you turn back to the PowerPoint
6 presentation that you gave at the conference, on
7 Page 10 under the --

8 MR. MONTMINY: Object to the form of
9 that statement.

10 BY MR. ELSNER:

11 Q. Page 10 under "The Pend Process." Do
12 you see where I'm at?

13 A. Page 10, "The Pend Process."

14 Q. Under "Know Your Customer" in the
15 middle, do you see where I am?

16 A. I see where you are.

17 Q. It says "questionnaire is sent to
18 account. Once received back and we are still
19 not comfortable releasing the order, a more
20 extensive questionnaire is sent out. If still
21 not comfortable, a phone interview or site visit
22 will be scheduled if necessary." Those are the
23 components in part of the know your customer
24 process at Henry Schein, is that correct?

1 MR. MONTMINY: Object to form.

2 A. I see that written there. In
3 reference to know your customer policy, I don't
4 recall a know your customer policy that we had.

5 BY MR. ELSNER:

6 Q. But that's what's written here?

7 A. "'Know Your Customer' questionnaire is
8 sent to account" I see is what is written there.

9 Q. Did Henry Schein have a know your
10 customer policy in 2010?

11 MR. MONTMINY: Objection. Form.

12 A. I don't recall.

13 BY MR. ELSNER:

14 Q. If you turn to Page 13 of the
15 PowerPoint presentation for the Buzzeo
16 conference, under -- the topic there is
17 "Questionnaires," is that right?

18 A. Questionnaires, yes.

19 Q. Okay. And there are "3 categories of
20 questionnaires developed," it reads. "Know your
21 customer" is one, correct?

22 A. I see that.

23 Q. "Self Assessment Questionnaire" and
24 "Extensive Site Visit Questionnaire," is that

1 right?

2 MS. MILLER: Object to form.

3 A. I see where that's written.

4 BY MR. ELSNER:

5 Q. And it lists some sample questions at
6 the bottom of the PowerPoint presentation,
7 correct?

8 A. I see that.

9 Q. It includes "Do you accept medical
10 insurance?" And "What percentage pay insurance"
11 versus pay in cash? Is that one of the sample
12 questions?

13 A. "Cash, credit," yes.

14 Q. Okay. And "Do you dispense...to
15 out-of-state patients" is another inquiry,
16 correct?

17 A. I see that as one of the questions
18 listed.

19 Q. All right. On Page 14, the next page,
20 it refers to site visits. Do you see that?

21 A. "Site visits consist of." I see that.

22 Q. Okay. And they're "Conducted on 'high
23 risk' accounts and accounts that we are not
24 comfortable with after initial due diligence,"

1 is that right?

2 MS. MILLER: Object to form.

3 A. I don't know if it was always the case
4 for just high-risk accounts, but I see where it
5 says here on high-risk accounts.

6 BY MR. ELSNER:

7 Q. Was it sometimes for other accounts,
8 not high-risk accounts?

9 A. I don't remember all the instances we
10 did site visits.

11 Q. The process, under item 2, could take
12 anywhere from 6 to 8 weeks to complete, is that
13 right?

14 MS. MILLER: Object to form.

15 A. I don't remember the exact time frame
16 it took to complete.

17 BY MR. ELSNER:

18 Q. That's what it says here, though,
19 right?

20 A. It says "Initially, the process could
21 took anywhere from six to eight weeks to
22 complete."

23 Q. Okay. And on the bottom it says,
24 "Site visits consist of," and it lists a number

1 of things, including observing patients in the
2 waiting room. Is that one?

3 MR. MONTMINY: Objection. Form.

4 A. That's what it says.

5 BY MR. ELSNER:

6 Q. Cars in the parking lot?

7 A. That is what it says.

8 Q. What were you looking for for cars in
9 the parking lot, what kind of cars?

10 MR. MONTMINY: Object to form.

11 A. Could be anything from was it a full
12 parking lot to out of state license plates.

13 BY MR. ELSNER:

14 Q. Because out of state license plates
15 may be an indicator of diversion, is that right?

16 MS. MILLER: Object to form.

17 A. No, not necessarily.

18 BY MR. ELSNER:

19 Q. It could be a red flag?

20 MS. MILLER: Object to form.

21 A. It was one of the things that we
22 looked at. Could be nothing.

23 BY MR. ELSNER:

24 Q. Could be nothing, could be something,

1 right?

2 MS. MILLER: Object to form.

3 BY MR. ELSNER:

4 Q. Yes, no?

5 A. I can't say. It's case-by-case.

6 Q. It's on the criteria that you listed,
7 is that right?

8 MS. MILLER: Object to form.

9 A. It's listed as one of the elements we
10 looked at.

11 BY MR. ELSNER:

12 Q. Okay. "Inventory reconciliations."
13 What's that?

14 A. I don't recall exactly what that is,
15 but some kind of inventory review.

16 Q. Inventory of what, the controlled
17 substances they had on hand?

18 MR. MONTMINY: Objection to form.

19 A. I think just inventory in general.

20 BY MR. ELSNER:

21 Q. The site visit also consisted of
22 security controls, is that right?

23 MR. MONTMINY: Objection. Form.

24 A. That's what it says.

1 BY MR. ELSNER:

2 Q. Pictures?

3 MR. MONTMINY: Same objection.

4 A. It says that there.

5 BY MR. ELSNER:

6 Q. Observing the surrounding
7 neighborhood?

8 MR. MONTMINY: Object to form.

9 A. That's what it says.

10 BY MR. ELSNER:

11 Q. And "Recordkeeping/Protocols"?

12 MR. MONTMINY: Object to form.

13 BY MR. ELSNER:

14 Q. Correct?

15 MS. MILLER: Object to form.

16 A. That's what it says.

17 BY MR. ELSNER:

18 Q. These were in elements of the know
19 your customer or site visit review. They were
20 part of the presentation that you gave in this
21 conference, correct?

22 MR. MONTMINY: Objection. Form.

23 A. That is what it says in this document.

24 BY MR. ELSNER:

1 Q. You said you had a copy of this
2 document. Where do you maintain a copy of this
3 presentation?

4 MR. MONTMINY: Objection. Form.

5 A. I don't know.

6 BY MR. ELSNER:

7 Q. Was it home, or is it at work?

8 MR. MONTMINY: Objection. Form.

9 A. I don't recall. I haven't seen this
10 in a long time.

11 BY MR. ELSNER:

12 Q. Do you recall telling me in the
13 beginning that you had a copy of this
14 presentation?

15 MR. MONTMINY: Objection. Form.

16 A. I recall saying I might have a copy.

17 BY MR. ELSNER:

18 Q. If you had a copy, where would it be?

19 MS. MILLER: Object to form.

20 MR. MONTMINY: Object to form.

21 A. I don't know.

22 MR. ELSNER: I'd ask that counsel
23 speak with the witness and see if they can
24 locate a copy of the presentation. If they can,

1 if they produce it to us.

2 MS. MILLER: We can discuss it off the
3 record.

4 BY MR. ELSNER:

5 Q. When did you join CVS?

6 A. 2012.

7 Q. And what were you hired at CVS to do?

8 MS. MILLER: Object to form.

9 BY MR. ELSNER:

10 Q. As you understand it.

11 A. I know some of my early projects were
12 working on a compliance review program as well
13 as some pharmacy initiatives that the company
14 was working on.

15 Q. Your title was senior compliance
16 manager when you were hired in August of 2012,
17 is that right?

18 A. That sounds right.

19 Q. Did you replace someone when you were
20 hired by CVS, or was this a new position?

21 MS. MILLER: Object to form.

22 A. I believe the position that I was
23 going into, I don't believe I was replacing
24 someone in that position.

1 BY MR. ELSNER:

2 Q. Okay. Why did you decide to leave
3 Henry Schein for CVS?

4 A. I don't recall all the reasons, but I
5 thought it was a good opportunity.

6 Q. Tell me about the process. Did you
7 see an advertisement and apply to it, or did you
8 send out a resume to CVS? How was it that you
9 came to be hired by CVS, as you understand it?

10 MS. MILLER: Object to form.

11 A. I believe I was contacted by CVS, and
12 had conversations through them reaching out.

13 BY MR. ELSNER:

14 Q. Who was it that contacted you from
15 CVS?

16 A. I don't remember exactly who it was.
17 It was someone from the talent acquisitions
18 department.

19 Q. And did they meet you at a conference,
20 or did they cold call you?

21 MS. MILLER: Object to form.

22 A. I'm not sure what caused them to reach
23 out.

24 BY MR. ELSNER:

1 Q. Were you working at Henry Schein at
2 the time?

3 A. Yes.

4 Q. Had you met anyone from CVS as part of
5 your work in the area of compliance for Henry
6 Schein?

7 MS. MILLER: Object to form.

8 A. Not that I recall.

9 BY MR. ELSNER:

10 Q. Did they tell you that they were
11 looking to fill a particular position at CVS?

12 MS. MILLER: Object to form.

13 A. I believe they called me about a
14 specific position.

15 BY MR. ELSNER:

16 Q. What was your understanding of the
17 position that they called you about?

18 MS. MILLER: Object to form.

19 A. I don't recall.

20 BY MR. ELSNER:

21 Q. At the time you were in Greenville,
22 South Carolina, is that right?

23 A. Yes, I believe so.

24 Q. Were you hired by CVS Pharmacy or CVS

1 Health? What entity of CVS hired you?

2 MS. MILLER: Object to form.

3 A. I don't recall. It was CVS.

4 BY MR. ELSNER:

5 Q. Who was your supervisor at CVS when
6 you were hired in August of 2012?

7 A. It was Tom Bourque.

8 Q. What was Tom Bourque's position?

9 A. At the time I believe he was the
10 director of regulatory compliance.

11 Q. Did he interview you for the position?

12 A. Yes.

13 Q. Did anyone else participate in the
14 interview process?

15 A. Yes.

16 Q. Who else?

17 A. I can recall meeting with talent
18 acquisition, and then other members of the, at
19 the time, the regulatory compliance team.

20 Q. What are their names?

21 A. Aside from Tom, I remember Karen
22 DiStefano.

23 Q. Any others?

24 A. And Susan Delmonico.

1 Q. What is Susan Delmonico's position?

2 A. At the time of the interview?

3 Q. Yes.

4 A. I don't exactly recall what her role
5 was.

6 Q. Did you have any people who reported
7 to you when you were hired by CVS in August of
8 2012?

9 A. There was one person.

10 Q. Who was that?

11 A. Cassandra Castro.

12 Q. And what was her title and what were
13 her job responsibilities?

14 MS. MILLER: Object to form.

15 A. At that time I don't recall.

16 BY MR. ELSNER:

17 Q. What was she doing for you under your
18 supervision?

19 A. I think at the time I was hired, I
20 think she was also learning the company as I
21 was. And then I know one of her big
22 responsibilities was the regulatory review
23 program.

24 Q. Was anyone who was involved in the

1 suspicious order monitoring system other than
2 Tom Bourque involved in any of -- let me strike
3 that.

[illegible]

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Q. Are you on any kind of medication that would impair your ability to remember? Did you take any kind of medication today that would impact your memory?

MS. MILLER: I'm going to object to that question. That's an improper questioning of the witness.

MR. ELSNER: It's not. I need to know. That's a standard deposition question at

1 every deposition.

2 BY MR. ELSNER:

3 Q. Are you on any medications today?

4 MS. MILLER: I object. It's an
5 inappropriate question.

6 BY MR. ELSNER:

7 Q. You can answer. She's raised an
8 objection.

9 A. I'm not on any medication.

10 Q. Thank you.

11 Would you agree with me that there's
12 an opioid crisis in the United States?

13 MS. MILLER: Object to form.

14 A. I know that there are people who abuse
15 drugs.

16 BY MR. ELSNER:

17 Q. Do you understand that the number of
18 people that -- well, do you know that there are
19 people who abuse prescription drugs including
20 opioids?

21 MS. MILLER: Object to form.

22 A. I am aware there are people who have
23 used opioids that have led in an overdose. I am
24 aware of that.

1 BY MR. ELSNER:

2 Q. Are you aware that the DEA and certain
3 government officials have referred to this
4 overdose that people are acquiring from opioids
5 as an epidemic?

6 MS. MILLER: Object to form.

7 A. I am not aware that I've heard the
8 term epidemic. I'm not aware that that is
9 specifically to prescription medications.

10 BY MR. ELSNER:

11 Q. So you're not aware of whether there's
12 an opioid epidemic in the United States today?

13 MS. MILLER: Object to form.

14 A. I think, like I said, I'm aware that
15 there are people who abuse drugs.

16 BY MR. ELSNER:

17 Q. Well, certainly there are people who
18 abuse drugs. I'm asking a much more different
19 and targeted question.

20 Are you aware that the number of
21 people that have abused opioids has risen to the
22 point of reaching an epidemic proportion in the
23 United States?

24 MS. MILLER: Object to form.

1 MR. DAWSON: Objection.

2 A. Well, you keep using the term
3 "epidemic." I am aware that there are people
4 who abuse prescription medications, illicit
5 drugs such as heroin. I'm aware that people
6 have overdosed on drugs.

7 BY MR. ELSNER:

8 Q. And you understand that's a huge
9 problem in the United States?

10 MS. MILLER: Object to form.

11 BY MR. ELSNER:

12 Q. Do you agree with that or disagree
13 with that?

14 MS. MILLER: Object to form.

15 A. I would agree that any time that
16 someone passes away that it's not something I'd
17 want to see.

18 BY MR. ELSNER:

19 Q. Well, for sure.

20 But do you agree that it's a huge
21 problem?

22 MS. MILLER: Object to form.

23 A. I'm not sure what you mean by "a huge
24 problem." I'm aware that people overdose on

1 drugs with prescription, illicit, fentanyl-laced
2 products.

3 BY MR. ELSNER:

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16 BY MR. ELSNER:

17 Q. Have you ever read anything about

18 opioid abuse problem in the United States?

19 MS. MILLER: Object to form.

20 A. I can't specifically recall anything,

21 but I've read about articles or about people

22 overdosing.

23 BY MR. ELSNER:

24 Q. In what kind of publications?

1 A. I've seen it on the news, online,
2 newspaper.

3 Q. Do you get a newspaper at your house,
4 or do you read online newspapers?

5 A. I mean, I obtain news through
6 different sources.

7 Q. I'm trying to understand the sources.
8 Do you get the New York Times or the
9 Boston Globe, or do you get any local paper to
10 your home?

11 A. I believe I might get the Town of
12 Medway news or something.

13 Q. Okay. What's your best recollection
14 of any publication that you've read an article
15 about the opioid overdoses in the United States?

16 MS. MILLER: Object to form.

17 A. I can't remember a specific article
18 that I've read.

19 BY MR. ELSNER:

20 Q. Have you written any -- have you read
21 any books about opioid abuse?

22 MR. MONTMINY: Object to form.

23 A. Not that I recall.

24 BY MR. ELSNER:

1 Q. Seen any movies about it?

2 MS. MILLER: Object to form.

3 A. I have seen movies in which characters
4 have overdosed on medications or drugs.

5 BY MR. ELSNER:

6 Q. Opioids?

7 MS. MILLER: Object to form.

8 A. Specifically, I don't recall a
9 specific movie that comes to mind. But I've
10 seen movies where part of the plot are people
11 die of drug overdoses.

12 BY MR. ELSNER:

13 Q. Do you understand that more people
14 died of a drug overdose from a prescription drug
15 than died in a car accident in recent years?

16 MS. MILLER: Object to form.

17 A. I don't believe I'd heard that before.

18 BY MR. ELSNER:

19 Q. Did you know that overdose from
20 prescription drugs has been the leading cause of
21 death in the United States?

22 MS. MILLER: Object to form.

23 A. I don't believe I specifically knew
24 that.

1 BY MR. ELSNER:

2 Q. I'm going to show you what we marked
3 as Exhibit 8.

4 (Whereupon, CVS-Schiavo-8 was marked
5 for identification.)

6 BY MR. ELSNER:

7 Q. This is the PowerPoint presentation
8 from the DEA. This is MR 3. This is from
9 September of 2012 in Long Island, New York.
10 This is the conference that you attended, the
11 DEA conference that you attended. And this
12 presentation was put together by Joseph
13 Rannazzisi who is the deputy assistant
14 administrator of the DEA.

15 Do you see that on the first page?

16 MR. MONTMINY: Object to form.

17 A. I see that.

18 BY MR. ELSNER:

19 Q. I want you to turn to the fourth page
20 of the document, and it says "Commonly Abused
21 Controlled Pharmaceuticals."

22 Do you see that?

23 A. I see where it says that.

24 Q. And you're aware, are you not, that

1 hydrocodone was one of the commonly abused
2 pharmaceuticals?

3 MS. MILLER: Object to form.

4 A. I am aware that hydrocodone is one of
5 the drugs that someone can abuse.

6 BY MR. ELSNER:

7 Q. Are you aware that it's a commonly
8 abused controlled substance?

9 MS. MILLER: Object to form.

10 A. I don't know what you mean by common,
11 but I'm aware that it can be abused.

12 BY MR. ELSNER:

13 Q. As well as OxyContin and oxycodone,
14 would you agree?

15 MS. MILLER: Object to form.

16 A. I am aware that those are drugs that
17 can be abused.

18 BY MR. ELSNER:

19 Q. Okay. I'm going to have you turn --

20 MR. ELSNER: Can we go off the record
21 for about 15 seconds?

22 THE VIDEOGRAPHER: We're going off the
23 record at 10:38 a.m.

24 (Whereupon, a recess was taken.)

1 THE VIDEOGRAPHER: We're back on the
2 record at 10:55 a.m.

3 BY MR. ELSNER:

4 Q. Mr. Schiavo, I'm going to ask you to
5 go to the next tab which you now have in front
6 of me from this PowerPoint that the DEA
7 presented at the conference you attended, and it
8 describes the "Economic Impact - the Cascading
9 Effect." That's the title of the slide, is that
10 correct?

11 MS. MILLER: Object to form.

12 A. That is what the slide says.

13 BY MR. ELSNER:

14 Q. It says that in 2006 the estimated
15 cost in the United States from non-medical use
16 of prescription opioids was \$53.4 billion. Did
17 I read that correctly?

18 A. I see where it says that.

19 Q. And it lists five drugs on the bottom
20 which account for two-thirds of the economic
21 burden.

22 Do you see that?

23 A. I don't see where it says that they
24 account for two-thirds, but I see drugs listed

1 at the bottom.

2 There, it says it, yes.

3 Q. And those drugs include OxyContin,
4 oxycodone, hydrocodone, among others, correct?

5 MS. MILLER: Object to form.

6 A. It looks like there's two other drugs
7 listed than you named.

8 BY MR. ELSNER:

9 Q. And it includes all of those, correct?

10 A. That's what it says.

11 MS. MILLER: Object to form.

12 BY MR. ELSNER:

13 Q. And these are drugs that were
14 dispensed by CVS pharmacies, correct?

15 MS. MILLER: Object to form.

16 A. I did not -- I didn't work for CVS in
17 2006. I can't answer that.

18 BY MR. ELSNER:

19 Q. Were these drugs that were dispensed
20 by CVS in 2012 when you joined CVS?

21 MS. MILLER: Object to form.

22 A. I can't say for sure that all of these
23 were.

24 BY MR. ELSNER:

1 Q. Hydrocodone is among the drugs that
2 were distributed by CVS when you joined them in
3 2012, correct?

4 MS. MILLER: Object to form.

5 A. Hydrocodone was one of the drugs that
6 pharmacies dispensed in 2012.

7 BY MR. ELSNER:

8 Q. And it was also a drug that CVS
9 distributed to its own pharmacies in 2012,
10 correct?

11 MS. MILLER: Object to form.

12 A. I do believe some of our distribution
13 centers distributed hydrocodone to pharmacies.

14 BY MR. ELSNER:

15 Q. Okay. If you turn to the next tab,
16 the next Post-it, it says "Emergency Room Data
17 2004 to 2009."

18 Do you see that?

19 A. I see that.

20 Q. Okay. And it reads the increase of
21 98.4 percent of ER visits attributable to
22 pharmaceuticals alone.

23 Did I read that correctly?

24 A. I see where it says that.

1 Q. Okay. And beneath that it says,
2 "Prescription drugs most frequently implicated:
3 Opiates/opioids pain relievers," and it lists
4 "Oxycodone products 242.2 percent increase,"
5 correct? Is that what it says?

6 MS. MILLER: Object to form.

7 A. It looks like that's what it says.

8 BY MR. ELSNER:

9 Q. Between 2004 and 2009 for hydrocodone
10 there was 124.5 percent increase in ER visits,
11 correct?

12 MS. MILLER: Object to form.

13 BY MR. ELSNER:

14 Q. Is that what it says?

15 MS. MILLER: Object to form.

16 A. Can you reread what part you were
17 reading.

18 BY MR. ELSNER:

19 Q. So we're talking about emergency room
20 data from 2004 to 2009, right?

21 A. Yes.

22 Q. And we're talking about increases in
23 ER visits attributable to those pharmaceuticals.
24 Are you with me?

1 MS. MILLER: Object to form.

2 A. I see the top bullet.

3 BY MR. ELSNER:

4 Q. Now we're talking about, we're
5 breaking it down, "Prescription Drugs most
6 frequently implicated: Opiates/Opioids pain
7 relievers," and it lists hydrocodone products as
8 124.5 percent increase.

9 Do you see that?

10 MS. MILLER: Object to form.

11 A. I see where it lists hydrocodone and
12 124.5 percent increase.

13 BY MR. ELSNER:

14 Q. Okay. If you go to the next sticky,
15 there's been an increase and rise in poisoning
16 deaths from opioids and analgesics, correct,
17 from 1999 through 2007? Do you see that?

18 MS. MILLER: Object to form.

19 A. I see the chart.

20 BY MR. ELSNER:

21 Q. Okay. Were you aware prior to this
22 conference that there was this rising death --
23 poisoning deaths from opioids?

24 MS. MILLER: Object to form.

1 A. I don't believe I was aware of this
2 exact data in this chart.

3 BY MR. ELSNER:

4 Q. Okay. If you go to the next tab, the
5 title is "Number of Forensic Cases, 2001 to
6 2010."

7 Do you see that?

8 MS. MILLER: Object to form.

9 A. I see that on the slide.

10 BY MR. ELSNER:

11 Q. And you see in 2001 there's sort of --
12 if you just look at the hydrocodone tab, which
13 is the green. Are you with me? In 2010 it's
14 slightly over 10,000, correct?

15 MS. MILLER: Object to form.

16 BY MR. ELSNER:

17 Q. In 2001, slightly over 10,000?

18 A. It looks like that's what the chart is
19 indicating.

20 Q. Okay. And that by 2010 for
21 hydrocodone there's been a 253 percent increase
22 in forensic cases, correct?

23 MS. MILLER: Object to form.

24 A. I see that on the chart. I am not

1 sure what's meant by "forensic cases," though.

2 I'm not sure what this is saying.

3 BY MR. ELSNER:

4 Q. Okay. Were you aware that there had
5 been a 250 percent increase in hydrocodone
6 overdoses from 2001 to 2010 before this
7 conference?

8 MS. MILLER: Object to form.

9 A. Yeah, I'm not exactly sure what
10 forensic cases mean, and I'm not sure, so I
11 can't say I know what that 253 percent --

12 BY MR. ELSNER:

13 Q. You don't know that forensic cases
14 refers to an overdose?

15 MS. MILLER: Object to form.

16 BY MR. ELSNER:

17 Q. What's your understanding of the word
18 forensic?

19 A. Not exactly sure what the definition
20 is.

21 Q. Forensic refers to death.

22 MS. MILLER: Object to form.

23 BY MR. ELSNER:

24 Q. You don't know?

1 A. I don't know the exact definition.

2 Q. If you go to the next sticky, sort of
3 a cover page, an introductory page, it reads
4 that the most commonly prescribed prescription
5 medicine is hydrocodone/acetaminophen.

6 Did I read that correctly?

7 A. That looks to be what it says.

8 Q. Okay. Were you aware prior to this
9 conference that hydrocodone/acetaminophen was
10 the most commonly prescribed prescription
11 medicine in the United States?

12 MS. MILLER: Object to form.

13 A. I don't recall if I knew that.

14 BY MR. ELSNER:

15 Q. If you go to the next tab, which is on
16 the very next page, the title is the "Top Five
17 Prescription Drugs Sold in the United States."
18 Do you see that? Is that what the title says?

19 A. That is what the title says.

20 Q. Okay. And do you see that hydrocodone
21 is significantly higher than all the other
22 drugs, prescription drugs, sold in the United
23 States?

24 MS. MILLER: Object to form.

1 A. I don't know exactly what's meant by
2 sold. And I do see that the hydrocodone line is
3 higher than other lines.

4 BY MR. ELSNER:

5 Q. Well, what do you believe sold means?

6 A. In terms of --

7 MS. MILLER: Object to form.

8 A. In the terms of this slide, I'm not
9 sure.

10 BY MR. ELSNER:

11 Q. Were you aware that there were more
12 prescriptions filled and sales of hydrocodone
13 than there were for Lipitor in the United
14 States?

15 MS. MILLER: Object to form.

16 A. Just based on this chart saying
17 "Prescription Drugs Sold," which I'm not --
18 still not sure exactly what sold means, the
19 hydrocodone bar is larger than the Lipitor bar.

20 BY MR. ELSNER:

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BY MR. ELSNER:

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Q. Did you know that hydrocodone was one of the most widely diverted and abused drugs in the United States?

MS. MILLER: Object to form.

A. I don't know if I knew it was one of the most highly diverted drugs.

BY MR. ELSNER:

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15 BY MR. ELSNER:

16 Q. Who asked you to attend this
17 conference in New York?

18 MS. MILLER: Object to form.

19 BY MR. ELSNER:

20 Q. If anyone.

21 A. I don't recall.

22 Q. Did someone at CVS ask you to go, or
23 did you decide to go on your own?

24 A. I don't recall.

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15 BY MR. ELSNER:

16 Q. What's your title at CVS today?

17 A. Director, business compliance officer.

18 Q. And what are your responsibilities as
19 the director of the business compliance?

20 A. My focus is on our retail business,
21 and focusing on new laws and regulations.

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MS. MILLER: Craig, are you ready for

5

a break?

6

THE WITNESS: I could use a break

7

soon.

8

MS. MILLER: Can we take a break?

9

We've been going now -- we talked about 12:15.

10

We've been going at least an hour and

11

15 minutes.

12

MR. ELSNER: Okay.

13

THE VIDEOGRAPHER: We're going off the

14

record at 12:17 p.m.

15

(Whereupon, a luncheon recess was

16

taken.)

17

18

19

20

21

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24

1 AFTERNOON SESSION

2

3 THE VIDEOGRAPHER: We're back on the
4 record at 12:57 p.m.

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Q. Okay. It says on Page 8 of the
PowerPoint under "DEA Reporting Requirements" at
the very top, it says "CVS is obligated to
report orders determined to be Suspicious that
were placed to our Distribution Centers," and
"placed to our distribution centers" is
underlined and in bold, correct?

A. I see that it is underlined, and it
appears that at least part of it is in bold.

Q. Okay. And then if you look down to
the third bolded item, it reads that "Orders
that are placed to an Outside Vendor that we
identify as an order deviating from the normal
size, frequency, and/or buying pattern and
deemed to not be for legitimate purposes or are
at the risk of being diverted are not required

1 to be reported to the DEA."

2 Did I read that correctly?

3 MS. MILLER: Object to form.

4 A. That's what it says, but I don't know
5 how we would identify an order placed to an
6 outside vendor deviating from normal size,
7 frequency, but I don't believe that part of our
8 process monitoring specific orders to the OV
9 when they are placed.

10

Row	Bar Start (approx. %)	Bar End (approx. %)
1	10	35
2	20	98
3	10	100
4	10	100
5	10	88
6	10	72
7	30	80
8	20	92
9	10	50
10	10	35
11	20	65
12	20	78
13	20	86
14	10	88
15	30	80

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12 Q. To prepare for the deposition today,
13 what did you do?

14 A. I had meetings with our internal and
15 outside counsel.

16 Q. How long did you meet with counsel
17 inside CVS to prepare for today's deposition?

18 MS. MILLER: Object to form.

19 A. I believe we met three or four times.

20 BY MR. ELSNER:

21 Q. How long were those meetings?

22 MS. MILLER: Object to form.

23 A. They varied in length.

24 BY MR. ELSNER:

1 Q. What's your best estimate of the total
2 number of hours you met with inside counsel to
3 prepare for today's deposition?

4 MS. MILLER: Object to form.

5 A. I don't recall how long I prepared
6 with inside counsel, counsel at -- our internal
7 CVS counsel. I don't recall. I can't put hours
8 on it. I can't recall how long.

9 BY MR. ELSNER:

10 Q. What about your outside counsel, how
11 many days, hours did you spend preparing for
12 your deposition with them?

13 A. We met three or four times.

14 Q. Did you meet yesterday? Don't say you
15 don't recall.

16 MS. MILLER: Object to form.

17 Objection.

18 BY MR. ELSNER:

19 Q. Did you meet with counsel yesterday?

20 A. Yes.

21 Q. How long?

22 A. Most of the day.

23 Q. Seven hours, six hours?

24 MS. MILLER: Object to form.

1 MR. ELSNER: What's the objection? He
2 said most of the day, I asked six or
3 seven hours. What's the objection?

4 MS. MILLER: Six or seven hours of the
5 day yesterday?

6 MR. ELSNER: Yes.

7 MS. MILLER: Just wasn't clear.

8 MR. ELSNER: That's not a valid
9 objection.

10 BY MR. ELSNER:

11 Q. How many hours did you meet with your
12 counsel yesterday?

13 A. We were probably together for seven
14 hours.

15 Q. Okay. Did you review documents? Yes
16 or no.

17 MS. MILLER: Objection.

18 I'm going to instruct you not to
19 answer to the extent it would reveal any of the
20 documents that we discussed based on privilege
21 and work product. You may answer the question.

22 A. We reviewed documents.

23 BY MR. ELSNER:

24 Q. Did you meet with counsel before

1 yesterday?

2 A. Yes.

3 Q. When was the prior meeting and how
4 long did it last, roughly?

5 A. Prior meeting was Tuesday.

6 Q. How long?

7 A. Most of the day.

8 Q. Six, seven hours?

9 A. I don't remember exactly.

10 MS. MILLER: Object to form.

11 A. I don't remember exactly how long.

12 BY MR. ELSNER:

13 Q. What time did you start?

14 A. Sometime after 10:00 o'clock.

15 Q. Where did you meet?

16 A. At One CVS.

17 Q. When did the meeting end; before
18 lunch, after lunch?

19 A. I don't recall when it ended.

20 Q. Dark outside, or not dark outside?

21 MS. MILLER: Object to form.

22 BY MR. ELSNER:

23 Q. This was Tuesday, right?

24 MS. MILLER: Object to form.

1 A. I don't recall exactly the time that
2 it ended.

3 BY MR. ELSNER:

4 Q. Did you meet for more or less than
5 four hours that day?

6 A. I don't remember exactly how long we
7 met. It was for a number of hours.

8 MR. ELSNER: To move this along, can
9 you give us an idea of how long you spent with
10 the witness preparing for the deposition? He
11 seems unable to recall what happened this week.

12 MS. MILLER: I'm not going to make a
13 representation. Ask your questions.

14 MR. ELSNER: You're unwilling to tell
15 us how long you met with the witness?

16 MS. MILLER: No, I just --

17 MR. ELSNER: He can't answer the
18 question.

19 MS. MILLER: He is answering the
20 question. He's trying --

21 MR. ELSNER: He says he can't
22 remember.

23 MS. MILLER: Well, he said --

24 MR. ELSNER: He can't remember when

1 the meeting ended on Tuesday. It began at
2 10:00 in the morning, and he can't tell me when
3 it ended.

4 BY MR. ELSNER:

5 Q. Did you go past lunch? Did you work
6 into the evening? I mean, five, six hours?
7 Please, someone, either of you, tell me. Can
8 you answer the question?

9 A. Tuesday we met for a good part of the
10 day. I don't remember exactly.

11 Q. What does that mean, "a good part of
12 the day"?

13 A. I had many other meetings during the
14 day, so I don't know exactly how long we met
15 for.

16 Q. Prior to that meeting on Tuesday and
17 the one yesterday, did you meet with counsel to
18 prepare for the deposition before that?

19 A. We met on Monday.

20 Q. So you met on Monday, you met on
21 Tuesday, and you met yesterday. How long did
22 you spend on Monday preparing for the
23 deposition?

24 A. I believe Monday was a good part of

1 the day.

2 Q. You spent a good part of the day
3 meeting with counsel on Monday, a good part of
4 the day meeting with counsel on Tuesday, and you
5 spent seven hours yesterday, is that right?

6 A. I don't know --

7 MS. MILLER: Object to form.

8 MR. ELSNER: That's what his testimony
9 was, right?

10 A. I don't know exactly how long we spent
11 yesterday, but it was most of the day, a good
12 part of the day.

13 BY MR. ELSNER:

14 Q. I thought you said seven hours.

15 Did you meet over the weekend?

16 A. We did not meet over the weekend.

17 Q. Did you meet last week?

18 A. We did not meet last week.

19 Q. And none of the process and system,
20 the questions that I've talked with you about
21 today, from 2014 to 2012, you did not have any
22 memory of any of those things we discussed,
23 correct?

24 MS. MILLER: Object to form.

1 That's not what he testified to. He
2 testified --

3 MR. ELSNER: Well, the jury can
4 determine that.

5 BY MR. ELSNER:

6 Q. Is there something in particular that
7 you remember that we discussed today that you
8 can highlight for me?

9 MS. MILLER: Object to form.

10 The record speaks for itself. He's
11 testified about the processing systems between
12 2012 and 2014.

13 MR. ELSNER: You can say object to
14 form.

15 BY MR. ELSNER:

16 Q. What's the answer, please?

17 A. Nothing that we have reviewed today,
18 to the best of my recollection, I recall from
19 the time either they were created or they were
20 first reviewed by me. I don't recall the
21 documents.

22 Q. Did you meet with the Analysis Group
23 to consider their proposal to develop and
24 enhance suspicious monitoring system for CVS?

1 A. I participated in meetings with AG
2 where enhancements to the system or the new
3 system were discussed.

4 Q. You were among the team that
5 reviewed -- that solicited and reviewed
6 proposals to partner with CVS in the development
7 of a suspicious order monitoring algorithm and
8 system, correct?

9 MS. MILLER: Objection. I'd like to
10 lodge an objection right after the question in
11 296:04. It's a follow-up to the prior question
12 I'd objected to, but I'd like that reflected on
13 the record. Thank you.

14 I apologize for interrupting on the
15 record.

16 BY MR. ELSNER:

17 Q. You were among the team that reviewed
18 and solicited -- that solicited and reviewed
19 proposals for consultants to assist CVS with its
20 development of an SOM algorithm and enhanced
21 program, correct?

22 A. I was part of a team that was
23 participating in conversations prior to
24 selecting a vendor. I don't remember viewing

1 any specific proposals.

2 Q. How many other vendors submitted
3 proposals? Was it anyone other than the Buzzeo
4 Group and the Analysis Group?

5 A. Those are the only two that I recall.

6 Q. Who would know if there are others?

7 MS. MILLER: Object to form.

8 A. I don't know who would know that.

9 MR. ELSNER: This is Motley Rice 9.
10 I'm going to mark this as the next exhibit.

11 (Whereupon, CVS-Schiavo-21 was marked
12 for identification.)

13 BY MR. ELSNER:

14 Q. This is another e-mail that you sent
15 to Tom Bourque. The date here is December 12,
16 2012. It reads "Opportunity Page, SOM Flow
17 Chart," and then you wrote "These are documents
18 mentioned in my status report just in case
19 Pawlik wants to see them when we are going over
20 the SOM slide or Inventory Cycle count slide."

21 Did I read that correctly?

22 A. That's what it says.

23 Q. Okay. And then it appears to be a
24 list of kind of action items, and there's an a

1 column for Duration, Start, Finish, and
2 Percentage Complete.

3 Do you see that?

4 A. I see that.

5 Q. Okay. And you drafted this?

6 A. I don't know if I drafted this.

7 Q. You sent it to your boss, right?

8 A. I sent it to my boss.

9 Q. And you said these are the documents
10 that you mentioned in your status report, so are
11 these documents that you drafted or did somebody
12 else draft these?

13 A. I don't recall. I don't remember
14 drafting this.

15 Q. Would there have been anyone else that
16 would have drafted this, to your knowledge, that
17 you would have sent to Mr. Bourque? I couldn't
18 see any other e-mails where someone forwarded it
19 to you.

20 MS. MILLER: Object to form.

21 A. It's very possible someone else
22 drafted this.

23 BY MR. ELSNER:

24 Q. Who would it be?

1 A. It could have been anyone on the
2 current SOM team.

3 Q. Okay. Can I ask you to look at
4 Page 103375? You see there's an ID number that
5 lists sequential numbers. If you go down to 48.
6 Do you see where I am? You go across 48. It
7 reads "Gap Analysis between current SOM & New."

8 Do you see that?

9 A. I see that.

10 Q. All right. And then if you go over to
11 Percentage Complete, it says 50 percent.

12 Do you see that?

13 A. I see where it says that.

14 Q. Okay. And then the Resource Names
15 associated with that analysis are you and
16 Tulley. Is that right?

17 A. Yes.

18 Q. Okay. So you were to perform a gap
19 analysis between the current SOM system in place
20 in 2012 and the new system that you were going
21 to develop, is that right?

22 MS. MILLER: Object to form. Object
23 on attorney/client privilege grounds.

24 To the extent the witness can answer

1 the question without revealing attorney/client
2 communications, you can answer.

3 A. I see what it says there. I see my
4 name with Tulley's name. I don't recall doing a
5 gap analysis. I don't recall doing that.

6 BY MR. ELSNER:

7 Q. Did CVS ever compare the old system
8 and come up with a list of items that are going
9 to be in the new system other than the documents
10 that I've shown you today that you drafted about
11 that? Is there anyone at CVS, to your
12 knowledge, that would do that?

13 MS. MILLER: Object to form. Object
14 on attorney/client privilege grounds.

15 And to the extent the witness can
16 answer the question without revealing
17 attorney/client communications, he can answer.
18 Otherwise I instruct him not to answer.

19 A. I don't recall anyone that did that.

20 BY MR. ELSNER:

21 Q. Your name is listed next to that task,
22 correct, with Tulley? Who is Tulley?

23 A. I believe that's Chris Tulley.

24 Q. And your name is listed with his as

1 responsible for that task, correct?

2 A. My name with Chris's is in the
3 resources name.

4 Q. You were also responsible for
5 identifying all the DEA requirements in the next
6 item, correct, item 49?

7 A. I see my name there, but I don't think
8 I would be relied on to identify all DEA
9 requirements.

10 Q. If you go to the next page under 53,
11 it says "Develop an algorithm methodology to
12 find orders of interest (using Thresholding
13 approach)." You and Tulley are listed there,
14 correct?

15 MS. MILLER: Mike, where are you?

16 MR. ELSNER: I'm at 63.

17 MS. MILLER: 63.

18 MR. ELSNER: 103376.

19 MS. MILLER: Thank you.

20 A. I see my name there.

21 BY MR. ELSNER:

22 Q. Okay. It's one of your
23 responsibilities under the new SOM system, is
24 that right?

1 MS. MILLER: Object to form.

2 A. I see what it says there, but at no
3 time do I recall it being my responsibility to
4 develop any kind of algorithm. I don't know how
5 I would do that.

6 MR. ELSNER: Why don't we go off the
7 record quickly?

8 THE VIDEOGRAPHER: We're going off the
9 record at 3:41 p.m.

10 (Whereupon, a recess was taken.)

11 THE VIDEOGRAPHER: We're back on the
12 record at 3:47 p.m.

13 BY MR. ELSNER:

14 Q. Mr. Schiavo, I put back before you
15 your year-end review from 2012. This is
16 Exhibit 9. We looked at this earlier. It's
17 dated January 25th, 2013. I'm going to ask you
18 to look at Page 8 of 11, which is at 120603.

19 A. Okay.

20 Q. Okay. And at the end of that first
21 full paragraph, it says "To date, I have
22 contributed to the following."

23 Do you see where I'm at?

24 A. I see where you're at.

1 Q. Okay. And the first plus there, it
2 says "To identify gaps in the current SOM system
3 that need to be addressed when developing the
4 new system."

5 Did I read that correctly?

6 A. That's what that says.

7 Q. And did you do that?

8 MS. MILLER: Object to form.

9 A. I don't recall ever doing a deep dive
10 into the system at this time and identifying
11 CAPS. I think at the time of this review I was
12 probably with CVS for a few months.

13 BY MR. ELSNER:

14 Q. That's what you wrote, though, right,
15 "Identify gaps in the current SOM system that
16 need to be addressed when developing the new
17 system," correct?

18 A. That's what it says in my year-end
19 review.

20 Q. Okay. And that's what it said in the
21 document we just looked at, that you were going
22 to do a gap review, correct?

23 MS. MILLER: Object to form.

24 A. It's -- I recall it saying something

1 about doing a gap analysis in the other
2 document.

3 BY MR. ELSNER:

4 Q. Comparing the old system to the new
5 system, right?

6 MS. MILLER: Object to form.

7 A. Can I look to see what the exact
8 wording was?

9 BY MR. ELSNER:

10 Q. Sure.

11 A. Do we know which number it was?

12 Q. I believe it was 48 or 49.

13 MS. VELDMAN: 63.

14 A. 63 was "Develop algorithm
15 methodology."

16 BY MR. ELSNER:

17 Q. I think it's the page before that.

18 A. 48 says "Gap analysis between current
19 SOM and new SOM."

20 Q. And that's what you wrote in your
21 review, "Identify gaps in the current SOM system
22 that need to be addressed when developing the
23 new system," right?

24 MS. MILLER: Object to form.

1 A. It says I contributed to that process.
2 I don't remember to what extent.

3 BY MR. ELSNER:

4 Q. Okay. Two more plusses down it says
5 "Selecting AGI as the vendor to help develop an
6 algorithm in order to identify potentially
7 suspicious orders."

8 Did I read that correctly?

9 A. That's what it says.

10 Q. Okay. And then on 63 of the prior
11 exhibit, line 63, it says "Develop algorithm
12 methodology to find orders of interest."
13 Correct?

14 MS. MILLER: Object to form.

15 A. This is saying with my name next to it
16 "Develop algorithm methodology." But again, I
17 don't ever recall being in charge of developing
18 an algorithm.

19 BY MR. ELSNER:

20 Q. Well, one of the items that you wrote
21 in your annual review was "Selecting AGI as the
22 vendor to help develop an algorithm in order to
23 identify potentially suspicious orders." Is
24 that one of the things listed in your annual

1 review?

2 A. It says that one of the things that I
3 contributed with was "selecting AGI to help
4 develop an algorithm," and I read that much
5 differently than me being responsible for
6 developing an algorithm.

7 Q. But you worked on it, right?

8 MS. MILLER: Objection to form.

9 BY MR. ELSNER:

10 Q. I didn't say you were the only one
11 responsible. That was one of the things you
12 worked on, right?

13 A. I was -- I participated in meetings
14 with other team members, but I don't think I had
15 a role in developing, writing the algorithm.

16 Q. Okay. Toward the bottom it says
17 "Drafting of the Stop Order/Order Resumption
18 SOP." You contributed to that, right?

19 MS. MILLER: Object to form.

20 You're on the --

21 BY MR. ELSNER:

22 Q. Back on your annual review, second to
23 last plus.

24 A. I see "Drafting of Stop Order/Order

1 Resumption SOP." But that's not a -- that is
2 not a policy that I'm -- I recall or am familiar
3 with. I don't know if that was ever an official
4 policy.

5 Q. Well, we saw those documents today.
6 Was it not an official policy of CVS, the policy
7 that you drafted with Aaron Burtner?

8 MS. MILLER: Object to form.

9 And maybe it would be helpful to show
10 him the exhibit that you're referring to so he
11 can take a look.

12 BY MR. ELSNER:

13 Q. You don't recall working on that
14 policy with Aaron Burtner, a stop order policy,
15 whether we were going to ship -- whether we were
16 going to stop the order of that exact drug or
17 the family of drugs? We discussed it for about
18 20 minutes.

19 MS. MILLER: Object to form. He's
20 already given testimony on it.

21 MR. ELSNER: I know, that's why I
22 thought it would be simple to say one of the
23 things that was listed was the drafting of the
24 stop order/order resumption SOP.

1 BY MR. ELSNER:

2 Q. That's one of the things listed in the
3 review, correct?

4 A. I don't recall the title of the policy
5 we reviewed today is the same policy that's
6 referred to right here. I don't recall the
7 title of the policies we reviewed today.

8 Q. Did you write in your annual review --
9 did you write "Drafting of the Stop Order/Order
10 Resumption SOP"? Yes or no.

11 A. It says there that I drafted the stop
12 order/order resumption SOP, which is a policy.
13 I'm not sure what policy that's referring to.

14 Q. I know, we've established you can't
15 remember.

16 MS. MILLER: Object to form.

17 BY MR. ELSNER:

18 Q. The next plus says "Providing input on
19 key decisions (Reporting to DEA offices, what
20 drugs to hold when an order flags, whether or
21 not to include outside vendor orders)."
22 Correct?

23 A. That's what that says.

24 Q. Okay. So there was a discussion at

1 CVS whether or not to include outside vendor
2 orders as part of the SOM process in 2012,
3 correct?

4 MS. MILLER: Object to form.

5 A. In 2012 I believe we discussed the
6 potential of including OV order in the new or
7 enhanced system that we were building.

8 BY MR. ELSNER:

9 Q. Okay. And it did not exist in the old
10 system, right?

11 MS. MILLER: Object to form.

12 A. I don't recall if OV orders were part
13 of the old system or not.

14 BY MR. ELSNER:

15 Q. I'm going to mark this.

16 Also in there is you provided input on
17 another key decision, which was what drugs to
18 hold when an order flags, is that right, whether
19 to hold that specific drug or whether to hold
20 the family of drugs? That's one of the other
21 things that you provided input on for key
22 decisions, correct?

23 MS. MILLER: Object to form.

24 A. That's what it says. But again, this

1 is in 2012 when I don't believe any final
2 decisions have been made on how our new or
3 enhanced system was -- all the elements that
4 were going to be in there.

5 BY MR. ELSNER:

6 Q. I understand. But that's one of the
7 things you provided input on, right, whether to
8 do the family of drugs or specific drugs or all
9 controlled drugs, right?

10 A. That's what it says.

11 Q. It also says you were going to provide
12 input on reporting to the DEA offices, correct?

13 A. That's what it says.

14 MR. ELSNER: Okay. Mark this next
15 document as Exhibit 22. This is Motley Rice 23.

16 (Whereupon, CVS-Schiavo-22 was marked
17 for identification.)

18 BY MR. ELSNER:

19 Q. CVS did hire the Analysis Group as a
20 consultant, right?

21 A. That's who we used to develop -- help
22 develop our SOM system.

23 Q. And so CVS hired them as a consultant,
24 is that right? Well, they didn't do it for

1 free, right?

2 A. That's -- yes, that's who we used to
3 do it.

4 Q. And you hired them?

5 A. I didn't personally hire them.

6 Q. I asked if CVS hired them.

7 MS. MILLER: Object to form.

8 BY MR. ELSNER:

9 Q. Did CVS hire the Analysis Group to
10 assist it in developing its SOM program?

11 A. Yes, the Analysis Group helped us
12 developed our SOM.

13 Q. In February of 2013 there is this
14 note, that memo, from the Analysis Group which
15 is a request for data for the SOM algorithm data
16 inputs. Do you see that in the "Re" line? The
17 date is February 4, 2013.

18 A. I see that.

19 Q. And there's some -- there's a listing
20 here at the end of the second paragraph, there's
21 sort of some numbers here, 1 through 10. This
22 is the data that the Analysis Group was
23 requesting in order to build the algorithm.

24 Do you see that?

1 A. I see the listing of elements there
2 that it looks like they're requesting.

3 Q. Okay. Who at CVS was responsible for
4 gathering this information to provide to the
5 Analysis Group, to the extent you know?

6 A. I don't know who would have provided
7 this information.

8 Q. Did you ever review the information or
9 the data that the Analysis Group was going to
10 use to compile the algorithm?

11 A. I don't recall reviewing any specific
12 data provided to Analysis Group.

13 Q. Under 8 it says "Store dispensing,"
14 and it lists under A, B, C and D, prescription
15 information, patient information, prescriber
16 information, pharmacist information. Is this
17 information -- was that a component of the SOM
18 program in place in 2012 at CVS and early 2013?

19 MS. MILLER: Object to form.

20 A. I don't recall whether it was or was
21 not included.

22 BY MR. ELSNER:

23 Q. But it was information that was
24 include -- was sent to the Analysis Group to be

1 included in its new algorithm for CVS, correct?

2 MS. MILLER: Object to form.

3 A. I see from this document that they
4 requested it.

5 BY MR. ELSNER:

6 Q. Do you know whether it was used by the
7 Analysis Group as a component of the algorithm?

8 MS. MILLER: Object to form.

9 A. I'm not -- I'm not familiar with
10 exactly what is in the algorithms.

11 BY MR. ELSNER:

12 Q. Well, do you know whether the system
13 analyzes dispensing information?

14 MS. MILLER: Object to form.

15 A. The current system we have today I
16 know takes into account dispensing information.

17 BY MR. ELSNER:

18 Q. And that system is based on the system
19 that the Analysis Group built for CVS, is that
20 right?

21 A. Yes, the current system we have today
22 is what the Analysis Group assisted with.

23 Q. And that includes prescribing
24 information, patient information, and pharmacist

1 info, correct?

2 MS. MILLER: Object to form.

3 A. Speaking specifically to the
4 algorithms, I don't know what is in all of the
5 algorithms. However, I'm aware that these are
6 data elements that would be available to the SOM
7 analysts during due diligence.

8 BY MR. ELSNER:

9 Q. Today?

10 A. Today.

11 Q. Do you know what was available to the
12 SOM analysts in 2012 before this system went
13 into effect?

14 MS. MILLER: Object to form.

15 A. I don't know of all the information
16 that was available to them back in 2012.

17 BY MR. ELSNER:

18 Q. There was a period of time in which
19 the current SOM system was working at CVS and
20 you were working with the Analysis Group to
21 develop the new SOM system, correct?

22 A. I believe so.

23 Q. And the new SOM system that went into
24 effect did not go into effect until 2014, is

1 that right?

2 A. I believe the new SOM system started
3 to roll out in 2014.

4 Q. 2014. It was on a rolling basis; you
5 did a few distribution centers at a time, is
6 that right?

7 A. I don't remember the exact dates, but
8 I know it was a rollout approach to the
9 distribution centers.

10 Q. You didn't hit all distributions at
11 one exact time with the new system, correct?

12 A. No, I don't believe they were all
13 rolled out at the same time.

14 Q. Okay. And that process of rollout
15 continued throughout 2014 into November of 2014,
16 is that right?

17 A. I don't recall the rollout schedule
18 and when it completed.

19 Q. But at least through 2012 when you
20 started through some point in 2014 CVS was using
21 the old system until the rollout for each
22 distribution center, and as the rollout came
23 into effect the new system would come into place
24 for that distribution center, is that right?

1 MS. MILLER: Object to form.

2 BY MR. ELSNER:

3 Q. And the old distribution centers were
4 still using the old process, correct?

5 MS. MILLER: Object to form.

6 A. I know that at the time of the
7 rollout, obviously the rollout involved
8 distribution centers going onto the new
9 developed algorithm and may have also used the
10 old algorithm as well or old system as well.
11 And I believe at the time of the rollout the
12 distribution centers that it hadn't been rolled
13 out to were still utilizing the older suspicious
14 order monitoring process.

15 BY MR. ELSNER:

16 Q. Okay. There never came a point in
17 time where you, you know, went to Indianapolis
18 and sat down with the SOM analysts there that
19 were using the old SOM system to understand it,
20 is that true?

21 MS. MILLER: Object to form.

22 A. I've never been to the Indianapolis
23 distribution center.

24 BY MR. ELSNER:

1 Q. Okay. Have you ever sat down with
2 anyone at CVS and reviewed an IRR report from
3 the old suspicious order monitoring system at
4 CVS?

5 MS. MILLER: Object to form.

6 A. I am aware there were IRR reports. I
7 don't recall going through one with anyone on
8 the SOM team.

9 BY MR. ELSNER:

10 Q. Do you know how to read one?

11 MS. MILLER: Object to form.

12 A. I don't recall having read an IRR. I
13 can't even think about it, whether -- I can't
14 remember what it looks like.

15 BY MR. ELSNER:

16 Q. Okay. That wasn't part of what you
17 did at CVS, right?

18 MS. MILLER: Object to form.

19 A. No, my role was never to review
20 orders.

21 BY MR. ELSNER:

22 Q. Okay. And no one from CVS sat down
23 with you and explained to you the system that
24 was in place with respect to suspicious order

1 monitoring at CVS in 2012 or 2013 or '14 as that
2 system was being used before the new enhanced
3 system was put into place, is that right?

4 MS. MILLER: Object to form.

5 A. At a high level I think I understood
6 the process, but no, I never recall a
7 conversation that went into details of exactly
8 what that old system -- how it functioned.

9 BY MR. ELSNER:

10 Q. Okay. Were you aware that they had
11 staffing issues with respect to the SOM
12 management team in Indianapolis in 2013?

13 MS. MILLER: Object to form.

14 A. I don't recall any management staffing
15 issues.

16 BY MR. ELSNER:

17 Q. Do you recall any staffing shortages
18 or other staffing problems in the SOM review
19 team in 2013?

20 A. I don't recall any situations where we
21 couldn't review, well, orders of interest
22 that -- well, I don't remember there ever being
23 an instance where that was an issue.

24 Q. That wasn't my question. I asked you

1 whether you were aware of any staffing shortages
2 or staffing issues in 2013.

3 MS. MILLER: Object to form.

4 A. I don't recall any staffing issues
5 that affected the SOM process.

6 BY MR. ELSNER:

7 Q. In June of -- in June of 2013, Aaron
8 Burtner left CVS, and Kelly Baker assumed Aaron
9 Burtner's responsibilities until a replacement
10 could be found, is that true?

11 A. I recall at some point Aaron left. I
12 don't remember exactly when that date was. And
13 I remember -- I somewhat remember working with
14 Kelly Baker on certain things. I don't know the
15 time frames.

16 (Whereupon, CVS-Schiavo-23 was marked
17 for identification.)

18 BY MR. ELSNER:

19 Q. This is Exhibit 23. If you go -- you
20 know, with all e-mails you've got to sort of
21 look at the first one first -- last one first if
22 you want to see the flow. So I'm going to ask
23 you to turn to Page 76116, which is the third
24 document of the e-mail I placed before you.

1 A. Okay.

2 Q. And this e-mail is from Shawna
3 Leuhring. Did I say that correctly?

4 A. I'm not sure how to pronounce her last
5 name.

6 Q. Have you ever met her?

7 A. I don't recall meeting Shawna.

8 Q. Do you know who she works for?

9 A. At this time I'm not sure who she
10 reported to.

11 Q. But she was with CVS?

12 A. It says "Contractor" next to her name,
13 but I remember her working at CVS.

14 Q. Okay. And this is an e-mail that she
15 wrote to you dated July 1, 2013, is that right?

16 A. Yes.

17 Q. And she says "Craig and Team, I've
18 updated the Archer SOM prototype with the
19 'Prescriber' changes, by removing the Letter and
20 Call fields from the 'Review' tab and moved the
21 'Action' tab section over to the 'Review' tab.
22 Attached, please find screenshots of the revised
23 SOM record. Please review and let me know if
24 you see the need for any other changes."

1 And then it says below "I'll also need
2 to get requirements for Access Control." And
3 then there's a question and it says "Who will be
4 entering in the SOM cases?"

5 Do you see that, question number 1?

6 A. I see where it says that.

7 Q. Okay. And if you see above her e-mail
8 there is an e-mail from you dated Tuesday,
9 July 2, 2013 to a number of people, including
10 Tom Bourque, Kelly Baker, Dean Vanelli.

11 Do you see that?

12 A. I see that.

13 Q. Okay. It says "Team, My comment are
14 in red, please review and make any
15 additions/changes necessary."

16 So basically what is happening here is
17 Shawna sends you an e-mail asking who is going
18 to gain access control, and then you write in
19 red the answers to those questions, and they're
20 bolded here.

21 And next to question 1, you -- next to
22 "Who will be entering in the SOM cases?", you
23 wrote "Kelly Baker and his team (yet to be
24 hired)," correct?

1 MS. MILLER: Object to form.

2 A. That's what it says.

3 BY MR. ELSNER:

4 Q. Okay. So at this point in time we had
5 Kelly Baker reviewing -- doing the SOM review
6 for CVS, and you were going to include a team
7 which was yet to be hired, is that right?

8 A. That's what it says.

9 Q. And then it says "Who will be
10 approving the SOM cases" under question 4.

11 Do you see that?

12 A. I see what -- I see what it says, and
13 I'm not sure what that means.

14 Q. Okay. It says "Who will be approving
15 the SOM cases?" And you write in response
16 "Kelly Baker or Kelly's manager, or both."

17 So at this point in time Kelly Baker
18 did not have a manager because Aaron Burtner had
19 left, correct?

20 MS. MILLER: Object to form.

21 A. I don't know that to be true.

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(Whereupon, CVS-Schiavo-28 was marked
for identification.)

1 BY MR. ELSNER:

2 Q. If you go to the next document I've
3 shown you, we've marked it as Exhibit 28. This
4 is another e-mail to Tom Bourque actually two
5 days before the e-mail we just looked at, "SOM
6 Risk Analysis." You write "Tom, I have made the
7 updates we discussed." And then you say there
8 may be one we want to change from medium to high
9 or both. And attached to that is an SOM risk
10 analysis that you created, correct?

11 A. This is an SOM risk analysis that was
12 created. I don't recall creating the document,
13 but it's a risk analysis.

14 Q. Okay. And did somebody else create
15 it?

16 MS. MILLER: Object to form.

17 A. I don't recall if I was the one who
18 started this document, but I clearly made
19 updates to it, based on the e-mail.

20 BY MR. ELSNER:

21 Q. And there's lists of potential risks.
22 And the first one, the risk level there is
23 listed as high, and you write "The SOM team is
24 inconsistent in the way they perform their due

1 diligence. Not each team member is aligned with
2 the importance of reaching out to our stores in
3 order to comply with the 'Know Your Customer'
4 expectation. This could also lead to
5 inconsistencies in the...process of what orders
6 should be released or blocked," correct?

7 A. That --

8 MS. MILLER: Object to form.

9 A. That is what that potential risk says.

10 BY MR. ELSNER:

11 Q. And then it writes in the comments,
12 "In May, the following is the percentage of
13 calls each team member made for flagged orders:
14 Annette, 19 percent." Then there's another
15 individual at 15 percent, Noah at 13 percent,
16 Caitlin at 7 percent, and Shan at 4 percent.
17 Did I read that correctly?

18 A. That's what that says.

19 Q. Okay. So part of the due diligence
20 process at CVS at this time in June of 2014 --
21 and this is under the new system, right?

22 MS. MILLER: Object to form.

23 A. I don't recall if it's rolled out to
24 all distribution centers, but I believe at some

1 point this was just newly rolled out to some
2 distribution centers.

3 BY MR. ELSNER:

4 Q. Well, these individual are the
5 suspicious order monitoring analysts working in
6 Rhode Island that you participated in hiring to
7 work on the new SOM system, right?

8 A. These are the SOM analysts who I
9 recall being part of the interview process.

10 Q. Okay. And less than 20 percent of
11 flagged orders were calls made to pharmacies,
12 correct?

13 MS. MILLER: Object to form.

14 A. Based on what that's indicating there,
15 yes. I don't know how those percentages could
16 be pulled or how they were pulled, but that's
17 what that's saying.

18 BY MR. ELSNER:

19 Q. Well, if you turn to the last page of
20 your e-mail to Tom Bourque on the prior exhibit,
21 the very last page of the exhibit, there's a
22 chart there of the percentage of phone calls,
23 correct?

24 MS. MILLER: Sorry, where are you,

1 Mike?

2 MR. ELSNER: Prior exhibit, last page.

3 MS. MILLER: That one -- oh, last
4 page.

5 A. It says "Team Member. Count of Case
6 Status." It has the percent of phone calls. I
7 don't see how that's calculated or how someone
8 would indicate from this the percent of phone
9 calls, though.

10 BY MR. ELSNER:

11 Q. Okay. If you go back to Exhibit 28,
12 the third item down for lack of -- that's listed
13 as a high risk is "Lack of engagement by the
14 Management team." Did I read that correctly?

15 A. It says that under "Potential Risk."

16 Q. Okay. And you write "The team is not
17 receiving the support and guidance they need to
18 effectively do their jobs. Since Susan has
19 started she has not taken an active role in
20 learning the position and finding the area of
21 opportunity within the team." Did I read that
22 correctly?

23 A. That's what the document says.

24 Q. And you believe that that was a high

1 risk, correct?

2 MS. MILLER: Object to form.

3 A. It says the risk level is high. I
4 don't know how risk level was interpreted or
5 what the risk is referring to, but under "Risk
6 Level" for that one it does say "High."

7 BY MR. ELSNER:

8 Q. And also then the next one, another
9 high risk you identify is the "Lack of
10 communication from the SOM Management team to
11 the SOM Analysts, as well as a lack of foresight
12 by the Management team." Did I read that
13 correctly?

14 MS. MILLER: Object to form.

15 A. That's what this document says.

16 BY MR. ELSNER:

17 Q. And the next item, another high risk,
18 "Lack of resources to handle the rollout of all
19 distribution centers. This could freeze the
20 rollout of the remaining six distribution
21 centers or cause the team to not get to every
22 flagged order each day," correct? Is that what
23 you wrote?

24 MS. MILLER: Object to form.

1 A. That is what this form says. I don't
2 know if I wrote that. That's what the form
3 says.

4 BY MR. ELSNER:

5 Q. That's in the chart that you forwarded
6 to your boss, correct?

7 MS. MILLER: Object to form.

8 A. That appears to be in the chart that I
9 sent to Tom.

10 BY MR. ELSNER:

11 Q. Okay. And then in the middle under
12 "Comments," it says "To date the team is
13 struggling to complete the amount of flagged
14 daily orders. With six more distribution
15 centers still to be rolled out, there has been
16 no plan communicated on how the team intends to
17 handle the increased volume." Did I read that
18 correctly?

19 MS. MILLER: Object to form.

20 A. That's what it -- that's what it says.

21 BY MR. ELSNER:

22 Q. And that was another high risk
23 identified, correct?

24 MS. MILLER: Object to form.

1 A. It's under "Risk Level. High."

2 Again, I don't know what thought process went
3 into putting these risk levels, and for that one
4 I'm not really sure exactly what the risk would
5 be.

6 BY MR. ELSNER:

7 Q. Go to the next one. Another high risk
8 level, "Today we are unclear how well the system
9 is identifying orders that should actually be
10 flagged (false positive rate and tests that need
11 to be more stringent?)" Did I read that
12 correctly?

13 A. That's what it says.

14 Q. And --

15 MS. MILLER: I just -- I understand
16 we're at seven hours. Are we past seven hours?

17 THE VIDEOGRAPHER: We're just at seven
18 hours now.

19 MS. MILLER: Okay. So after this
20 question.

21 MR. ELSNER: I'll probably ask two
22 questions here, three.

23 MS. MILLER: Okay.

24 BY MR. ELSNER:

1 Q. "The SOM Algorithm" in the next one
2 "is not flagging the drugs which are diverted
3 the most at our retail locations at a high
4 enough rate." And that's identified as a
5 medium/high risk, correct?

6 MS. MILLER: Objection to form.

7 A. High/medium is under the risk level
8 column.

9 BY MR. ELSNER:

10 Q. Okay. And so --

11 MS. MILLER: Mike, you're out of time.
12 So you can ask --

13 MR. ELSNER: I'm just going to finish
14 this. I've got another question to ask, and
15 I'll just finish with this document.

16 MS. MILLER: This is the last
17 question. This is the last question.

18 BY MR. ELSNER:

19 Q. As of June of 2014, you were still
20 finding high risk levels even with the new
21 rollout of the new system with respect to
22 staffing issues, resources to handle the review
23 of orders, and consistent performance of due
24 diligence reviews, correct?

1 MS. MILLER: Objection to form. And
2 I'm going to instruct him not to answer. We're
3 out of time.

4 MR. ELSNER: No, I'll get an answer to
5 that question.

6 MS. MILLER: We're out of time.

7 MR. ELSNER: No.

8 BY MR. ELSNER:

9 Q. Answer the question.

10 MS. MILLER: It's seven hours. It's
11 up.

12 MR. ELSNER: It's a summary question,
13 and I'm going to ask for more time from the
14 court in any event.

15 MS. MILLER: Objection.

16 BY MR. ELSNER:

17 Q. Please answer the question.

18 MS. MILLER: Objection.

19 I instruct you not to answer.

20 MR. ELSNER: You can't instruct him
21 not to answer.

22 MS. MILLER: You're out of time.

23 MR. ELSNER: You said one more
24 question, I asked him the question, now you

1 won't let him answer the question. You wanted
2 to see what the question was first? You said
3 one more question, and I asked him one more
4 question.

5 MS. MILLER: But now I've realized --

6 MR. ELSNER: It's a good question?

7 MS. MILLER: -- it's not fair for
8 you -- no, it's not fair for you to continue
9 after seven hours, and I think we should cut it
10 off.

11 MR. ELSNER: No, you said I could get
12 one more question, and that's what I've done.
13 Let him answer the question.

14 MS. MILLER: I'm instructing him not
15 to answer. We're done. We're out of time.

16 MR. ELSNER: I think you should answer
17 the question.

18 I'm going to go to the court and ask
19 for more time. I think this has been
20 ridiculous. I think he hasn't admitted at any
21 point offering any document, remembering any
22 documents. You had three days prepping him, and
23 he's giving us nothing that he could potentially
24 remember at all at CVS. And you told me I could

1 ask one more question, and now you won't let him
2 answer the question.

3 MS. MILLER: Okay. You may answer the
4 question.

5 MR. ELSNER: Can you go back to what
6 the question is so I can read it?

7 MS. MILLER: But I object to it, and I
8 don't think it should be part of the record
9 given that you're out of time.

10 BY MR. ELSNER:

11 Q. As of June of 2014, you were still
12 finding high risk levels even with the new
13 rollout of the new SOM monitoring system with
14 respect to staffing issues, resources to handle
15 the review of orders, and consistent performance
16 of due diligence reviews, correct?

17 A. As I stated, I don't know how these
18 risk levels were determined, and at this point
19 in the process I had no concerns or no reason to
20 believe -- in fact, I was very confident that we
21 were meeting our obligation to have a suspicious
22 order monitoring system.

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THE VIDEOGRAPHER: This concludes the
videotaped deposition of Craig Schiavo. The
time is 5:10 p.m., and we are now off the
record.

1 (Whereupon, the deposition was
2 concluded.)

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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

2

3 I, MAUREEN O'CONNOR POLLARD, RMR, CLR,

4 and Commissioner in the State of Rhode Island

5 and Providence Plantations, do certify that on

6 the 17th day of January, 2019, at 8:06 o'clock,

7 the person above-named was duly sworn to testify

8 to the truth of their knowledge, and examined,

9 and such examination reduced to typewriting

10 under my direction, and is a true record of the

11 testimony given by the witness.

12 I further certify that I am neither

13 attorney, related or employed by any of the

14 parties to this action, and that I am not a

15 relative or employee of any attorney employed by

16 the parties hereto, or financially interested in

17 the action.

18 In witness whereof, I have hereunto

19 set my hand this 20th day of January, 2019.

20

21

22 _____
COMMISSIONER

23 My Commission Expires April 30, 2020

24

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it. It will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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ACKNOWLEDGMENT OF DEPONENT

I, _____, do
Hereby certify that I have read the foregoing
pages, and that the same is a correct
transcription of the answers given by me to the
questions therein propounded, except for the
corrections or changes in form or substance, if
any, noted in the attached Errata Sheet.

WITNESS NAME

DATE

Subscribed and sworn

To before me this

_____ day of _____, 20____.

My commission expires: _____

Notary Public

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